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No. 9994

United States

Vol 232
see Vol 2322

Circuit Court of Appeals

For the Ninth Circuit.

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

vs.

THE CITIZEN-NEWS COMPANY, a corporation,
Respondent.

Transcript of Record

Upon Petition for Enforcement of an Order
of the National Labor Relations Board

FILED

MAR 23 1942

PAUL P. O'BRIEN,
CLERK

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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United States of America
Before the National Labor Relations Board
Twenty-First Region
Case No. XXI-C-701

In the Matter of

HOLLYWOOD- CITIZEN-NEWS COM-
PANY, a corporation,

and

LOS ANGELES NEWSPAPER GUILD

COMPLAINT

It having been charged by Los Angeles Newspaper Guild, 6513 Hollywood Boulevard, Los Angeles, California, that the Hollywood Citizen-News Company, a corporation, hereinafter referred to as "Respondent", at its plant in Hollywood, in the City of Los Angeles, California, has engaged in and is now engaging in certain unfair labor practices affecting commerce, as set forth and defined in the National Labor Relations Act, 49 Stat. 449, the National Labor Relations Board, by the Regional Director for the Twenty-first Region, as agent of the National Labor Relations Board, designated by National Labor Relations Board Rules and Regulations, Series 1, as amended, hereby issues its complaint and alleges the following:

1. Respondent is now and at all times herein mentioned has been a corporation organized under

and existing by virtue of the laws of the State of California, having its principal office and place of business at 1545 North Wilcox Avenue, Hollywood, in the City of Los Angeles, California. Respondent has, at all times herein mentioned, and now does own, conduct, manage, print, and sell the Hollywood-Citizen News, a daily newspaper which is distributed in the State of California and in and through other states of the United States. Respondent at all times herein mentioned has been and now is engaged both within and without the State of California in the buying, selling, collecting, formulating, transmitting, and receiving of news and intelligence, and in the owning, using, leasing, managing, and conducting of agencies therefor.

2. The Respondent is a member of the Associated Press and purchases the service of the United Press, each one of which is a National organization engaged in the purchase, collection, receipt, compilation, and transmission of news and intelligence from places within and without the continental limits of the United States. The Associated Press maintains and operates teletype machines in the plant of the Respondent at Hollywood, California, for the purpose of receiving and sending news and intelligence, by means of which news and intelligence originating both within and without the State of California are received at Respondent's plant at Hollywood, California. The news and intelligence so received are then redistributed through the columns of the Re-

spondent's newspaper, the Hollywood Citizen-News, to its subscribers in the State of California and in various other states as above stated. News collected, written, and edited by employees of Respondent in the State of California is rewritten, edited, and transmitted by employees of the Associated Press to all of its subscribers throughout the United States. The said Associated Press depends almost entirely upon the employees of Respondent for the collection of news within the limits of Hollywood, California, and for the transmission of said news to its subscribers throughout the nation.

3. The Respondent, in addition to the news services of the Associated Press and United Press, purchases syndicated material from George Matthews Adams, Inc., Ledger Syndicate, New York Tribune, Inc., Consolidated News Features, Inc., Chicago Tribune-New York News Syndicate, Inc., King Features Syndicate, Inc., Bell Syndicate, Register and Tribune Syndicate, McClure Newspaper Syndicate, McNaught Syndicate, Retail Reporting Bureau, Inc., and Ullman Features Service. All of said syndicates and firms above-mentioned maintain principal offices in the City of New York from which source a substantial part of the material, feature articles, cartoons, and photographs purchased by the Respondent is sent, and all of the said material purchased by the Respondent from the above-named syndicates is received from without the State of California and is transmitted by means of inter-

state and foreign commerce to Respondent's offices at Hollywood, California.

4. Respondent, through its newspaper, the Hollywood Citizen-News, aids in the nation-wide distribution of various syndicated articles, cartoons, and news features. The Respondent, through its newspaper columns, also aids in advertising certain products on a national basis. Various supplies, machines, and equipment used by Respondent in the publication of the Hollywood Citizen-News are purchased in and shipped from states other than the State of California and from foreign countries and, in particular, newsprint is purchased by Respondent in Sweden and shipped to Respondent's plant at Hollywood, California. Newsprint is also purchased by Respondent in Canada and shipped from Canada to Respondent's plant at Hollywood, California.

5. The Los Angeles Newspaper Guild, herein-after referred to as the "Guild", is a labor organization, as defined in Section 2, subdivision (5) of the Act.

6. Respondent, through its officers, agents, and servants, to-wit: Harlan G. Palmer, Harold Swisher, Harwood Young, and Harry Brandon, while engaged in the operations of its Hollywood plant, as described in paragraphs 1 to 4, inclusive, hereof, did on or about May 14, 1938, discharge Roger C. Johnson, Mellier G. Scott, Jr., and Elizabeth Yeaman, and each of them, employed in the Hollywood plant, and on or about May 16, 1938, did discharge Karl Schlichter, and Helen Blair Thurly, and each

of them, employed in the Hollywood plant, and at all times since said dates has refused and now does refuse to reinstate the said Roger C. Johnson, Mellier G. Scott, Jr., Elizabeth Yeaman, Karl Schlichter, and Helen Blair Thurlly, hereinafter referred to as "the above-named individuals", and each of them, for the reason that the above-named individuals, and each of them, joined and assisted a labor organization, viz., the Guild, and engaged in concerted activities with other employees for the purpose of collective bargaining and other mutual aid and protection, and by all said acts, and each of them, Respondent did discriminate and is discriminating in regard to the hire and tenure of employment of the above-named individuals, and each of them, and did thus discourage, and is thus discouraging membership in a labor organization, viz., the Guild, and did thereby engage in and is thereby engaging in unfair labor practices, within the meaning of Section 8, subdivision (3) of the Act.

7. Respondent, by its discharge of and refusal to reinstate the above-named individuals, and each of them, as set forth in paragraph 6, hereof, did interfere with, restrain, and coerce, and is interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, and by all said acts, and each of them, did engage in and is engaging in unfair labor practices, within the meaning of Section 8, subdivision (1) of the Act.

8. A unit composed of all employees in the editorial department, exclusive of supervisory employees with authority to hire or discharge, would insure to employees the full benefit of their right to self-organization and would otherwise effectuate the policies of the Act, and is a unit appropriate for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

9. On or about December 1, 1937, and at all times thereafter, a majority of the employees in the appropriate unit, described in paragraph 8, hereof, had designated the Los Angeles Newspaper Guild as their representative for the purpose of collective bargaining with Respondent. By virtue of Section 9, subdivision (a) of the Act, the Guild, on or about December 1, 1937, was and at all times since said date has been and now is the exclusive representative of all employees in the aforesaid appropriate unit for the purposes of collective bargaining with Respondent in respect to rates of pay, wages, hours of employment, and other conditions of employment.

10. Respondent, through its officers, agents, and servants, to-wit: Harlan G. Palmer, Harold Swisher, Harwood Young, Harry Brandon, Willis Sargent, Zuma Palmer, Roger Geissinger, Horace Turner, and Harold Hubbard, did on or about December 1, 1937, refuse and at all times since said date has refused and now does refuse to bargain collectively in good faith with the Guild as exclusive represen-

tative of all employees in the aforesaid appropriate unit in that:

(a) Respondent, through its aforesaid officers, agents, and servants, did on many and various dates subsequent to December 1, 1937, to-wit: on or about December 31, 1937, and on other dates, advise its employees not to join or assist the Guild;

(b) Respondent, through its aforesaid officers, agents, and servants, did on or about January 31, 1938, advise its employees to go over the heads of their "bargaining representatives" and appeal direct to Harlan G. Palmer;

(c) Respondent, through its aforesaid officers, agents, and servants, did on many and various dates subsequent to December 1, 1937, advise its employees that it would not negotiate a contract with the Guild;

(d) Respondent, through its aforesaid officers, agents, and servants, did on many and various dates subsequent to December 1, 1937, warn its employees that a number of them would be discharged if the Guild negotiated a contract with Respondent;

(e) Respondent, through its aforesaid officers, agents, and servants, did on May 14, 1938, discharge active members of the Guild, viz., Roger Johnson, Mellier G. Scott, Jr., and Elizabeth Yeaman, for the purpose of disrupting and terminating contract negotiations between the Guild and Respondent, and for the purpose of discouraging the Guild membership;

(f) Respondent, through its officers, agents, and servants, to-wit: Harlan G. Palmer and Willis Sargent, did from a certain date, to-wit: on or about December 1, 1937, to May 14, 1938, unduly and unreasonably prolong negotiations between Respondent and the Guild for the purpose of disrupting and bringing to naught said negotiations and for the purpose of discouraging membership in the Guild; and by all said acts, and each of them, Respondent did engage in and has engaged in and is now engaging in unfair labor practices, within the meaning of Section 8, subdivision (5) of the Act.

11. By its refusal to bargain collectively in good faith with the Guild as exclusive representative of all employees in the appropriate unit, described in paragraph 8, hereof, in respect to rates of pay, wages, hours of employment, and other conditions of employment, as set forth in paragraph 10, hereof, Respondent did interfere with, restrain, and coerce and is interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, and by all said acts, and each of them, did engage in and is engaging in unfair labor practices, within the meaning of Section 8, subdivision (1) of the Act.

12. The activities of Respondent, as set forth in paragraphs 6 to 11, inclusive, hereof, occurring in connection with the operations of Respondent, described in paragraphs 1 to 4, inclusive, hereof, have a close, intimate, and substantial relation to trade,

traffic, and commerce among the several states and with foreign countries and have led and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

13. The aforesaid acts of Respondent, as set forth in paragraphs 6 to 11, inclusive, hereof, occurring in connection with the operations of Respondent, as described in paragraphs 1 to 4, inclusive, hereof, constitute unfair labor practices, within the meaning of Section 8, subdivisions (1), (3), and (5) and Section 2, subdivisions (6) and (7) of the Act.

Wherefore the National Labor Relations Board on this 27th day of June, 1938, issues its complaint against the Hollywood Citizen-News Company, a corporation, Respondent herein.

NOTICE OF HEARING

Please take notice that on the 5th day of June, 1938, in Room 452, Pacific Electric Building, Sixth and Main Streets, Los Angeles, California, at 9:30 o'clock in the forenoon, a hearing will be conducted before the National Labor Relations Board, by a Trial Examiner to be designated by it in accordance with its Rules and Regulations—Series 1, as amended, Article IV and Article II, Section 23, on the allegations set forth in the complaint hereinabove set forth, at which time and place you will have the right to appear in person or otherwise, and give testimony.

You are further notified that you have the right to file with the Regional Director for the Twenty-first (21st) Region, acting in this matter as the agent of the National Labor Relations Board, an answer to the foregoing complaint, on or before the 2nd day of July, 1938.

Enclosed herewith for your information is a copy of the Rules and Regulations, made and published by the National Labor Relations Board, pursuant to authority granted in the National Labor Relations Act. Your attention is particularly directed to Article II of said Rules and Regulations.

In witness whereof, the National Labor Relations Board has caused this, its complaint and its notice of hearing, to be signed by the Regional Director for the Twenty-first (21st) Region on the 27th day of June, 1938.

(Seal)

TOWNE NYLANDER

Regional Director, 21st Region
National Labor Relations Board
745 Pacific Electric Bldg.
Los Angeles, California

[Title of Board and Cause.]

ANSWER OF THE CITIZEN-NEWS CO., A
CORPORATION, SUED HEREIN AS HOL-
LYWOOD CITIZEN-NEWS COMPANY, A
CORPORATION

Comes now Respondent, The Citizen-News Co., a corporation, sued herein as Hollywood Citizen-

News Company, a corporation, and answering the complaint on file herein, admits, denies and alleges as follows:

I.

Answering Paragraph 1 of the complaint, Respondent specifically denies that the newspaper, "The Hollywood Citizen-News", is distributed outside the State of California, or in or through other States of the United States in excess of 4/10ths of 1% of its total circulation. Respondent specifically denies that it is engaged in any activity outside the State of California, or that it buys, or sells, or collects, or formulates, or receives news or intelligence without the State of California, or that it transmits news outside the State of California except as to the portion stated above of 4/10ths of 1% of the total circulation of the Hollywood Citizen-News, or that it owns, or uses, or leases, or manages, or otherwise conducts any agency or agencies for any of said activities, or for any other purpose, outside the State of California. Respondent alleges that, in addition to publishing the Holywood Citizen-News, it is also engaged in commercial job printing, in publishing other publications, and in printing a publication known as "The Hollywood Advertiser", in all of which it acts solely within the State of California and for customers, all of whom are in the State of California.

II.

Answering Paragraph 2 of the complaint, Respondent specifically denies that news or intelligence

originating outside the State of California is received at Respondent's plant at Hollywood, California, through teletype machines of the Associated Press, or otherwise, and alleges that all news or intelligence received by means of said teletype machines is received by wire service from within the State of California. Respondent further specifically denies that any news or intelligence is sent by means of said teletype machines, whether to a source within the State of California or elsewhere. Respondent admits that a portion only of the news and intelligence received on said teletype machines is redistributed in the columns of Respondent's newspaper, The Hollywood Citizen-News, but alleges that said redistribution of said news or intelligence is made wholly within the State of California, excepting the 4/10ths of 1% of circulation referred to hereinafter. Respondent specifically denies that it redistributes any news or intelligence in any places outside the State of California, except as to 4/10ths of 1% of the total circulation of The Hollywood Citizen-News. Respondent specifically denies that employees of the Associated Press rewrite or edit or transmit news which has been collected or written or edited by Respondent's employees in the State of California, but admits that news collected by Respondent's employees is available to the Associated Press. Respondent is without knowledge that employees of the Associated Press transmit news throughout the United States. Respondent alleges

that the Associated Press wholly owns and controls all its said teletype machines in Respondent's plant, and that Respondent neither owns nor controls said teletype machines. Respondent specifically denies that the Associated Press depends either entirely, or in any respect, upon any of Respondent's employees for the collection of news within Hollywood, California, and further specifically denies that the Associated Press depends in any respect upon Respondent's employees for the transmission of any news outside the State of California.

III.

Answering Paragraph 3 of the complaint, Respondent admits that it purchases syndicated material from all but one of the syndicates and firms named in said paragraph. Respondent is without knowledge as to whether all of said syndicates or firms maintain principal offices in the City of New York, and specifically denies that all of the material or feature articles, or cartoons or photographs purchased by the Respondent from said syndicates or firms is transmitted by means of interstate or foreign commerce to Respondent's offices. Respondent admits that the transmission to Respondent of a substantial part of the material, feature articles, cartoons and photographs purchased by the Respondent from the firms and syndicates named in said paragraph is commenced in the City of New York.

IV.

Answering Paragraph 4 of the complaint, Respondent specifically denies that it aids in the nationwide distribution of various syndicated articles or cartoons or news features, but alleges in this connection that it publishes syndicated articles, cartoons and news features purchased from certain of the syndicates and firms named in Paragraph 3 of the complaint. Respondent specifically denies that it in any way aids in advertising certain products on a national basis, but alleges that it advertises nationally known products. Respondent specifically denies that it purchases newsprint in Sweden. Respondent admits that it purchases newsprint in Canada, but specifically denies that said newsprint is shipped to Respondent's plant at Hollywood, California. Respondent further alleges that the total cost of its newsprint in any given year represents in the aggregate less than 12% of the total cost of operating said newspaper, The Hollywood Citizen-News. Respondent specifically denies that any supplies or machines or equipment used by Respondent in the publication of The Hollywood Citizen-News, other than the newsprint heretofore mentioned, and other than certain equipment, machines and minor supplies, the latter constituting in the aggregate less than 2% of the total operating expense of said newspaper, are purchased in or shipped from any State other than the State of California, or from any foreign country. Respondent further alleges that substantially all the sup-

plies, machines and equipment now used by it were purchased within the State of California.

V.

Answering Paragraph 5 of the complaint, Respondent admits that the Los Angeles Newspaper Guild is a labor organization as defined in Section 2, Subdivision (5), of the National Labor Relations Act, or otherwise.

VI.

Answering Paragraph 6 of the complaint, Respondent admits that on May 14th, 1938, it discharged Roger C. Johnson, Mellier G. Scott, Jr., and Elizabeth Yeaman, and that on May 16th, 1938, it discharged Karl Schlichter and Helen Blair Thurlly, and that it has at all times since said dates refused to reinstate said individuals, or any of them, but Respondent specifically denies that at any time, through its officers, or agents, or servants, or through Harlan G. Palmer, or Harold Swisher, or Harwood Young, or Harry Brandon, or through any other person, or otherwise, it discharged or refused to reinstate the above named employees, or any of them, for the reason that said employees, or any of them, joined or assisted a labor organization, whether it be the Guild, or otherwise, or engaged in concerted activities with other employees for the purpose of collective bargaining, or other mutual aid, or protection, or for any other reason having any connection with or relation to the labor organization activities or membership of said employees,

Johnson, or Scott, or Yeaman, or Schlichter, or Thurly. Respondent further specifically denies that by its discharge of, and refusal to reinstate said employees, or any of them, or by any other acts, it did at any time discriminate, or is discriminating, in regard to the hire or tenure of employment of said discharged employees, or any of them, or that it did at any time discourage, or is now discouraging, membership in any labor organization, or that it did at any time engage in, or is now engaging in, any unfair labor practice or practices within the meaning of Section 8, Subdivision (3), of the National Labor Relations Act, or within the meaning of any other Section or Subdivision of said Act, or otherwise.

VII.

Answering Paragraph 7 of the complaint, Respondent specifically denies that by its discharge of, or refusal to reinstate said individuals Johnson, or Scott, or Yeaman, or Schlichter, or Thurly, or any of them, it did at any time interfere with, or restrain, or coerce, or is now interfering with, or restraining, or coercing, any of its employees in the exercise of rights guaranteed in Section 7, or any other Section, of the National Labor Relations Act, or that by said acts, or any other acts, it did at any time engage in, or is now engaging in, any unfair labor practice or practices within the meaning of Section 8, Subdivision (1), of the Act, or any other Section or Subdivision of said Act, or otherwise.

VIII.

Respondent admits Paragraph 8 of the complaint.

IX.

Answering Paragraph 9 of the complaint, Respondent admits that on or about December 1, 1937, a majority of its employees in Respondent's Editorial Department, exclusive of supervisory employees with authority to hire or discharge, designated the Los Angeles Newspaper Guild as their representative for the purposes of collective bargaining with Respondent. Respondent admits that the Guild is now, and has been, the exclusive representative of all employees in its Editorial Department for purposes of collective bargaining with Respondent in respect to rates of pay, or wages, or hours of employment, or other conditions of employment.

X.

Answering Paragraph 10 of the complaint, Respondent specifically denies that on or about December 1, 1937, or at any other time, through its officers, or agents, or servants, or through Harlan G. Palmer, or Harold Swisher, or Harwood Young, or Harry Brandon, or Horace Turner, or Harold Hubbard, or Willis Sargent, or Zuma Palmer, or Roger Geissinger, or any other person, it did refuse, or does now refuse, to bargain collectively in good faith with the Guild as exclusive representative of all employees in its Editorial Department.

Respondent further specifically denies that on

December 1, 1937, or on December 31, 1937, or on January 31, 1938, or on May 14, 1938, or at any other time whatever through any of the above named persons, or through any of its officers, or agents, or servants, or through any other person, it did or does now advise any of its employees not to join or assist the Guild, or that it did or does now advise any of its employees to go over the heads of their "bargaining representatives" and appeal direct to Harlan G. Palmer; or that it did or does now advise any of its employees that it would not or will not negotiate a contract with the Guild; or that it did or does now warn any of its employees that any of said employees would be discharged if the Guild negotiated a contract with Respondent; or that it discharged any active member or members of the Guild, and particularly Roger C. Johnson, Mellier G. Scott, Jr., or Elizabeth Yeaman, or any other person, for the purpose of disrupting or terminating contract negotiations between the Guild and Respondent, or for the purpose of discouraging Guild membership, or for any purpose having any connection with or relation to activities or membership in the Guild, or any labor organization; or that it did unduly or unreasonably prolong negotiations between Respondent and the Guild, or that it performed any act for the purpose of disrupting or bringing to naught said negotiations, or for the purpose of discouraging membership in the Guild.

Respondent further specifically denies that it at any time, or in any manner, or through or by any person, did engage in, or has engaged in, or is now engaging in, any unfair labor practice or practices within the meaning of Section 8, Subdivision (5), or any other Section or Subdivision of the National Labor Relations Act, or otherwise.

XI.

Answering Paragraph 11 of the complaint, Respondent specifically denies that it has at any time, or in any manner, or through any person, refused to bargain collectively in good faith with the Guild as exclusive representative of all employees in its Editorial Department in respect to rates of pay, or wages, or hours of employment, or other conditions of employment. Respondent specifically denies that at any time, or in any manner, or by any act, or through any person, it did interfere with, or restrain, or coerce, or is now interfering with, or restraining, or coercing, any of its employees in the exercise of any rights guaranteed in Section 7, or any other Section of the National Labor Relations Act, or otherwise, or that by any act, or through any person, or at any time, it did engage in, or is now engaging in, any unfair labor practice or practices within the meaning of Section 8, Subdivision (1), or any other Section or Subdivision of the National Labor Relations Act, or otherwise.

XII.

Answering Paragraph 12 of the complaint, Respondent specifically denies that any act or activity of Respondent, whether occurring in connection with the operations of Respondent alleged in Paragraphs 1 to 4 of the complaint, or otherwise, has or has had a close or intimate or substantial or any other relation to trade, or traffic, or commerce among the several States, or with foreign countries. Respondent further specifically denies that any act of Respondent has at any time led, or now leads, or tends to lead, to any labor dispute or disputes, or that any act of Respondent has at any time led, or now leads, or tends to lead, to any labor dispute burdening or obstructing commerce or the free flow of commerce.

XIII.

Answering Paragraph 13 of the complaint, Respondent specifically denies that the alleged or any other acts of Respondent, enumerated in Paragraphs 6 to 11, or any other Paragraph of the complaint, or otherwise, constitute unfair labor practices in any respect, or that said alleged acts constitute unfair labor practices affecting commerce within the meaning of Section 8, Subdivisions (1) or (3) or (5), or Section 2, Subdivisions (6) or (7), or any other Sections of the National Labor Relations Act, or any other Act, or otherwise.

For a Second, Further, Separate, and Affirmative Defense to the Complaint Herein, Respondent Alleges as Follows:

I.

That on December 15, 1937, the Los Angeles Newspaper Guild, through its Executive Secretary and negotiator, C. H. Garrigues, requested that Respondent's President meet with the negotiating committee of the Guild in an effort to reach an agreement between Respondent and its employees as to wages, hours of labor, and other working conditions in Respondent's Editorial Department. Respondent, through its President, immediately acceded to this request, and thereafter, over a period of several months, Respondent, through its President, or other authorized representatives, met with the representatives of its editorial employees nine times, and otherwise frequently communicated with the Guild representatives, in an effort to reach an agreement as to working conditions. At all times Respondent indicated the greatest willingness to confer with the authorized representatives of its editorial employees for purposes of collective bargaining, and granted every request of these representatives for a meeting at the earliest time such meetings could be conveniently arranged.

II.

That on December 22, 1937, Respondent met with the negotiating committee of the Guild and listened to the latter's proposed collective bargaining con-

tract. On January 4, 1938, Respondent, through its President, Harlan G. Palmer, submitted to the Guild and to its negotiating committee copies of desired changes in the proposed contract. The Guild, on January 11, 1938, through C. H. Garrigues, then requested detailed explanations from Respondent for all counter-proposals made by the latter. This request was at once granted and on January 14, 1938, Respondent again met with the negotiating committee of the Guild and, through its President, Harlan G. Palmer, it stated its contentions. On February 2, 1938, a third meeting was held, similar in nature to the first two. On February 9, 1938, Respondent submitted in writing revised proposals for changes in the Guild's original proposal. Shortly thereafter a fourth meeting was held. At this meeting, Mr. Garrigues agreed to submit a counter-proposal on behalf of the Guild. One month later, on March 9, 1938, after apologies for the delay, the negotiating committee of the Guild furnished Mr. Palmer with a counter-proposal.

On March 14, 1938, Respondent, through its President, informed Mr. Garrigues that Mr. Willis Sargent would thereafter continue the negotiations with the Guild as the authorized representative of Respondent. At the request of the Guild, Mr. Sargent met with the negotiating committee on March 22, 1938, and again on March 25, 1938. Respondent was then informed by the Guild, through a letter from the negotiating committee, that "further discussion of the matter with Mr. Sargent

would be fruitless''. Following this letter, and again at the request of the Guild, Respondent, through its President and through Mr. Sargent, met with the negotiating committee for the seventh time on April 6, 1938. At this meeting, Mr. Philip M. Connelly, President of the Los Angeles Newspaper Guild, and a member of the negotiating committee, walked out of the meeting. Following his departure, Respondent suggested that it submit a new proposal in writing. This suggestion was agreed to by Mr. Garrigues as spokesman, and on April 16, 1938, a new draft of a proposed collective bargaining contract for its editorial employees was submitted by Respondent to the Guild. Mr. Connelly, for the negotiating committee, then requested another meeting to make certain changes in the agreement, but did not suggest what changes were to be made. On May 2, 1938, Miss Urcel Daniel, for the negotiating committee, incorporated these changes in a letter to Respondent.

On May 6, 1938, the eighth meeting between Respondent and the negotiating committee was held. On May 9, 1938, Respondent's revised proposals were submitted to the Guild. Through Miss Daniel, the negotiating committee, on May 11, 1938, informed Respondent that the revised proposal was satisfactory with the execution of only one point of difference, which related to compensation for overtime. The negotiating committee thereby found satisfactory, and had previously agreed to, Article II of the proposed agreement, which reads as follows:

“The publisher retains full power and discretion, save as limited or prohibited by law, to employ or dismiss employees, including that to determine competency or to pre-emptorily discharge any employee, and also as to the number to be employed in any department, or as to the duties of each, and may merge, increase, reduce, or eliminate departments and transfer any employee from one department to another without the violation in letter or in spirit of any portion of this agreement.”

On May 13, 1938, the ninth and final meeting between Respondent and the negotiating committee of the Guild was held, the last change proposed by the negotiating committee was compromised, and the contract as drawn on May 9th, with the addition of the new compromise change as to overtime, and with the addition of a change as to the hours of the sports and drama editors, was agreed upon. The effective date of the contract was to be May 16, 1938. The Guild, through Mr. Garrigues, stated that the Unit would have to formally approve the contract and that it would have to be sent to New York for approval, which would take about ten days, but that there was no doubt but that it would be approved and could go into effect on the following Monday, May 16th, as agreed.

III.

At this meeting, Respondent, through its authorized representative, Mr. Willis Sargent, informed

the negotiating committee that because of the decline in advertising, Respondent had decided to dismiss three employees in a retrenchment program. Mr. Sargent further offered to state at that time which employees would be dismissed. The negotiating committee, however, through Mr. Garrigues, stated that if such dismissals were made because of retrenchment, they were within the province of Respondent, and that the negotiating committee and the Guild did not care to know which employees would be dismissed. A brief discussion then ensued as to preferential re-hiring if business conditions improved.

At the conclusion of this meeting, Miss Daniel, as Secretary of the Los Angeles Guild, requested Mr. Sargent to have the final copy of the agreement as approved in her hands by Tuesday, May 13th, as the Guild met that night.

The next day, May 14, 1938, in accordance with the terms of the collective bargaining agreement, Respondent posted schedules for the five-day week, which was called for by the agreement. On the same day, dismissal notices were given to Elizabeth Yeaman, Roger Johnson, and Mellier G. Scott, Jr. On May 16, 1938, dismissal notices were given to Karl Schlichter and Helen Blair Thurly. The latter two were not editorial room employees.

On May 16, 1938, the Guild demanded the unconditional reinstatement of Johnson, Scott and Yeaman. This demand for unconditional reinstatement was refused by Respondent, which offered to meet

with the Guild but not to compromise the right to dismiss for other than discriminatory reasons. Later, on May 16, 1938, Respondent conferred with Dr. Towne Nylander, Regional Director of the National Labor Relations Board, at the request of the latter.

IV.

Respondent has at all times made every effort to negotiate with the Guild as the representative of its editorial employees. Respondent met with the negotiating committee no less than nine times and during the course of these meetings acceded to many of the demands of the negotiating committee. At the conclusion of these negotiations, an agreement was reached, one of the terms of which was that Respondent should have the right to dismiss employees.

Upon these facts, Respondent concludes its second affirmative defense by alleging that it has at no time refused to bargain with the representatives of its editorial employees, that such employees as were dismissed were dismissed for cause and in accordance with the terms of the collective contract agreed upon, and that Respondent is under no compulsion to reinstate each or any of these employees.

As a third, further, separate and affirmative defense to the complaint herein, Respondent alleges as follows:

I.

That for some months prior to May 14th the Respondent was confronted with decreased advertising

revenues and increased costs, and deemed it advisable to institute a retrenchment program. Elizabeth Yeaman, Roger Johnson, Mellier G. Scott, Jr., Karl Schlichter and Helen Blair Thurly, and each of them, were dismissed because of and as part of this retrenchment program, and not for any reason having any connection with or relation to the Guild or other labor organization activities or membership of any of said employees. Each of these dismissals was made only after earnest and careful consideration by Respondent of positions in its organization that might be eliminated. Every eligible employee in the editorial department of Respondent was at the time of these dismissals, and had been for some time, a member of the Guild.

Wherefore, Respondent, The Citizen-News Co., sued herein as the Hollywood Citizen-News Company, a corporation, prays that the complaint on file herein be dismissed as to Respondent.

THE CITIZEN-NEWS CO.,
1545 N. Wilcox Avenue,
Hollywood, California.

By HARLAN G. PALMER
President

WILLIAMSON, HOGE, SARGENT & JUDSON
and

JENNINGS & BELCHER
By WILLIS SARGENT
Attorneys for Respondent

State of California,
County of Los Angeles—ss.

Harlan G. Palmer, being by me first duly sworn,
deposes and says:

That he is an officer, to wit, the President of The Citizen-News Co., the Respondent in the above entitled action, and that he makes this verification for and on behalf of said company; that he has read the foregoing answer and knows the contents thereof; and that the same is true of his own knowledge, except as to the matters which are therein stated to be without the knowledge of Respondent, and as to those matters that he believes it to be true.

HARLAN G. PALMER

Subscribed and sworn to before me this 1st day
of July, 1938.

(Seal)

ELSIE W. WYATT

Notary Public in and for the County of Los Angeles,
State of California

United States of America

Before the National Labor Relations Board

Twenty-First Region

Case No. XXI-C-701

In the Matter of

THE CITIZEN-NEWS COMPANY,

a corporation

and

LOS ANGELES NEWSPAPER GUILD

heretofore captioned

Case No. XXI-C-701

In the Matter of

THE HOLLYWOOD CITIZEN-NEWS COM-

PANY, a corporation

and

LOS ANGELES NEWSPAPER GUILD

INTERMEDIATE REPORT

Upon charges duly made and acting pursuant to proper authority, the National Labor Relations Board, by Towne Nylander, its Regional Director, for the Twenty-First Region, issued its complaint against the Hollywood Citizen-News Company, a corporation, which said complaint and the style or caption of the case was at the hearing upon motion

and without objection amended by substituting in place and stead of "The Hollywood Citizen-News", "The Citizen-News Company", the respondent herein. The complaint and notice of hearing thereon were duly served upon the respondent.

The complaint alleged that respondent had engaged in unfair labor practices affecting commerce within the meaning of Section 2 (6) and (7) and Section 8 (1), (3) and (5) of the National Labor Relations Act. The respondent's answer admitted that the Los Angeles Newspaper Guild is now, and has been, the exclusive representative of all employees of the Editorial Department for purposes of collective bargaining with Respondent in respect to rates of pay, or wages, or hours of employment, or other conditions of employment and also admitted other specific facts alleged in the complaint, but denied that it has or has had a close or intimate or substantial or any other relation to trade or traffic, or commerce among the several States, or with foreign countries or that it had engaged in any unfair labor practice.

The undersigned, as duly designated Trial Examiner of the National Labor Relations Board, conducted a hearing from July 5 to July 12, 1938, in Room 452, Pacific Electric Building, Sixth and Main Streets, Los Angeles, California, at which time all parties were afforded an opportunity to participate in the hearing, to call, examine and cross-examine witnesses.

At the opening of the hearing a motion to amend the answer page 12 thereof, lines 28 and 29 to read "Tuesday May 17" instead of "Tuesday May 13" was granted. A motion to amend paragraph 8 of the complaint lines 2 and 3 thereof to read "excluding Mr. Swisher, the managing editor, Mr. Harold Hubbard, the City Editor, and Miss Zuma Palmer, the radio editor" in stead and in place of "exclusive of supervisory employees with authority to hire or discharge" was granted.

It was also stipulated by and between counsel for the Board and counsel for Respondent that the evidence introduced on the question of the Board's jurisdiction and the business of the Company in Case No. XXI-C-606 be made a part of the record herein and that findings of fact be made on such evidence.

At the conclusion of the hearing the parties were afforded a reasonable opportunity to argue orally before the undersigned and were advised by the undersigned that they would be given an opportunity for oral argument before the Board upon request to the Board made within ten (10) days from the receipt of the Intermediate Report. The parties were further advised that they might file briefs with the undersigned within ten (10) days from the close of the hearing. Respondent was the only party to avail itself of the opportunity to argue orally. No briefs were submitted. At the close of the hearing counsel for respondent made

several motions to dismiss the complaint. Ruling was reserved on said motions, which are at this time denied.

Upon the record thus made and from his observation of the witnesses, the undersigned makes, in addition to the above, the following specific findings of fact:

FINDINGS OF FACT

I. Respondent

1. The Citizen-News Company is a California corporation. It was incorporated in 1931. Prior to that time there were two news-papers published in Hollywood, California, the Hollywood Citizen and the Hollywood News. The Hollywood Citizen purchased the Hollywood News, taking possession November 1, 1931, and the newspapers became the Hollywood Citizen-News. The Citizen-News Company owns, operates, conducts, manages, publishes and prints the Hollywood Citizen-News which is a daily newspaper, published six days a week. The respondent also owns, prints and publishes the Hollywood Advertiser an advertising publication distributed one day a week without cost from house to house in Hollywood and the adjacent and contiguous communities of Wilshire, Beverly Hills and Westwood. The respondent also owns an interest in, prints and publishes the Hollywood Shopping News, which is published and distributed from house to house on Sundays. It also prints a publication

known as the Daily Variety of which 4000 copies are printed each day on news print furnished by the Daily Variety. It maintains and operates a commercial job printing department. It also prints outside publications including the composition and stereotyping thereof.

2. The president and general manager of the respondent is Harlan G. Palmer, who is also editor of the Hollywood Citizen-News. He was the publisher of the Hollywood News from 1915 to November 1, 1931. He is, and has been, a member of the California Newspaper Publishers Association for a period of twenty years, during which time he has held the honorary title of Counsel advising member on legal matters; but, however, doing no court work. He is chairman of its employer-employees relations committee.

II. The Organization Involved.

3. The Los Angeles Newspaper Guild organized in September, 1936, is a labor organization admitting to its membership those employed in the commercial, business and editorial department of newspapers. It is known as Chapter No. 69 of the American Newspaper Guild affiliated with the C.I.O. Its jurisdiction includes Los Angeles County and the counties adjacent thereto. The Hollywood Citizen-News unit of the Guild was organized in October, 1936. All employees of the editorial department of the Hollywood Citizen-News, excepting Harold

Swisher, the managing editor; Harold Hubbard, assistant to Swisher, and Zuma Palmer, radio editor, sister of said Harlan G. Palmer, nineteen in number, were members of the Citizen-News unit of the Los Angeles Newspaper Guild, at the commencement of the period of bargaining, December 15, 1937, to which reference is hereinafter made, and up to and including May 17th, 1938.

4. On or about December 15, 1937, a Negotiating Committee, composed of Guild members outside the unit, selected by the Executive Committee of the Los Angeles Newspaper Guild, commenced to bargain collectively with the respondent in respect to rates of pay, wages, hours of employment, and other conditions of employment on behalf of the employees of the Editorial Department of the Citizen-News. These negotiations continued up to May 16, 1938. On the 15th day of May, 1938, a strike vote was had by the unit and a strike called for May 17, 1938. The strike was still in effect at the time of the hearing.

5. The members in good standing of the unit were at one time forty-eight in number. Shortly prior to and at the date of the strike the unit had twenty-five members in good standing, of which nineteen were members of the Editorial Department. Twenty-three of the unit members in good standing went on strike.

III. The Unfair Labor Practices

A. The Discriminatory Discharges.

6. The complaint alleged that Roger C. Johnson, Mellier J. Scott, Jr., Elizabeth Yeaman, Karl Schlieter and Helen Blair Thurlby were discharged because they joined and assisted the Guild. During the course of the hearing counsel for the Board moved to dismiss the complaint as to Helen Blair Thurlby, without prejudice. The motion was granted. The following evidence was adduced with respect to the other four alleged to have been discriminatorily discharged.

7. Roger C. Johnson. Johnson went to work for the respondent January 14, 1935. His relations with Harlan G. Palmer over a period of time commencing prior to his employment by respondent were intimate and most friendly. Prior to his employment by respondent he had been the editor of the Southwest Wave, a community newspaper then and now printed by respondent. With \$2000.00 loaned to him and one, McKenzie, his then partner, by Harlan G. Palmer, president and general manager of respondent, they purchased the Hancock Press, which after two years unsuccessful operation, was, with Palmer's permission, sold. Although McKenzie never repaid his portion of the loan upon Johnson's paying his portion thereof Palmer discharged him from all, other and further liability. He took an active and prominent part in the movement which had for its purpose the drafting of

Palmer for District Attorney of Los Angeles County in 1936, and in Palmer's campaign for this office in the November election of that year. During this campaign Johnson, at the request of Swisher, managing editor of respondent, made a radio address and on this occasion by prearrangement with Swisher, was introduced as Guild President. In March, 1937, Johnson was confined to a hospital as a result of a broken leg sustained at an outing of respondent's employees. While hospitalized he was visited, among others, by Zuma Palmer, Mrs. Swisher, wife of managing editor, and Thompson, Palmer's secretary, and received many notes from Swisher requesting his early return to work as his services were badly needed. Palmer also offered to assist in paying the hospital bill. The relations between Johnson and Palmer were such that on numerous occasions Johnson was accused of being Palmer's stooge. This close, intimate and personal relationship between Johnson and Palmer, shortly after Palmer's defeat for District Attorney, became on Palmer's part less cordial.

8. Johnson's salary upon entering the employ of respondent was \$24.00, and upon discharge \$45.00 per week, he having, in the meantime, received several increases in salary. During his period of employment he had no particularly designated position. He was a general reporter. He became known as the political editor of the Hollywood Citizen-News. He was assistant to the San Fer-

nando Valley Editor, a San Fernando Valley edition being published, substituting a page of San Fernando Valley News in place of the regular financial page. He was also a rewrite man; rewriting stories of others and writing stories from information phoned to the office. He interviewed political candidates, covered political meetings, City Council and Board of Education meetings. His duties also required him to attend four luncheon clubs weekly. He also covered Schools and The American Legion.

9. Johnson has been active in the Los Angeles Newspaper Guild since its formation in September, 1936. He was one of the founders of the Guild, one of its first temporary presidents and the first permanent president elected in January, 1937. He has served on Guild Bargaining Committees in negotiations with the Los Angeles Herald-Express, Los Angeles Evening News, and at the time of the hearing he was serving on the committee bargaining with the Huntington Park Signal. He was active in organizing the Citizen-News unit of the Guild in October, 1936.

10. In June, 1936, prior to the organization, he was one of a group of eight editorial employees which presented to Palmer their ideas as to wages and working conditions. Shortly thereafter, Office Gossip, issue of July 14, 1936, a mimeographed sheet published by the management and distributed with the employee's pay checks, notified employees having complaints as to salary or working conditions, to lodge such complaints with Harwood

Young, respondent's business manager, or with their department heads who would take them to Young. This notice also contained the following: "If the employees are dissatisfied, after their complaints have been considered, they should make an immediate and earnest effort to locate jobs elsewhere, for they are not doing themselves justice in working under conditions against which they rebel." Shortly after the election herein referred to, and during the same month, November, 1936, Johnson requested of Swisher a day off to go to San Francisco to see a friend who was departing for Honolulu. "It is not for Guild business, is it?" was Swisher's reply. Although Johnson protested that his request had no connection with Guild affairs, and although he had put in considerable extra and overtime work, for the respondent, one day's pay was deducted. In December, 1936, Young requested of Johnson information as to wage schedules placed in effect with four Los Angeles papers about four months previous. This information was given to Palmer and Young, at which meeting Johnson explained the purposes of the Guild. After leaving the hospital, while riding with Zuma Palmer, he was by her questioned as to whether or not the Guild was necessary to the Citizen-News, in view of Judge Palmer's fairness. At about this time Wynn, Assistant Business Manager, and head of the composing room, frequently questioned Johnson about Guild activities, particularly as to when it would ask for a contract with respondent. Wynn

observed that the Guild was paying too much to economic rather than ethical phases. At about the time of the Annual Guild Convention in St. Louis, Swisher questioned the propriety of the Guild going into the C.I.O. Shortly afterwards Young advised Johnson that he heard he was organizing the Commercial Department. This, Johnson explained, could not be done under existing procedure. At about this time, Young inquired whether Guild membership would prevent a person from holding an executive position. It was about this time, July 1, 1937, that Johnson became a stockholder of respondent, purchasing \$300.00 of stock. About July of 1937, Harry Brandon, head of display advertising, talked to Johnson in the Citizen-News office about the Guild, C.I.O., and labor unions in general, and expressed doubt as to the advantage of unions for professional people. Frequently thereafter Brandon expressed similar views. In July, 1937, a conference, at the suggestion of Young, was held in Palmer's office for the purpose of discussing working conditions and wages, at which were present Johnson, Crow, Simonton and Elizabeth Yeaman of the editorial staff, and Palmer and Young for the respondent. During the conference Palmer made reference to the agreement with the business office employees, and attempted to force the committee to disregard Guild procedure and to express themselves on rates of pay, wages, hours, and other conditions of employment. Palmer objected to Guild procedure,

namely, for the unit to instruct the Guild that it desired to bargain collectively and the appointment of negotiators outside the unit by the Executive Committee of the Guild. In October, 1937, Brandon, having been informed that he would not be admitted to Guild membership, requested Johnson's aid in obtaining membership. Shortly thereafter Montrose, who at the date of the hearing was advertising manager, objected to Brandon being denied Guild membership. At about this time the display advertising men, pursuant to Brandon's orders, were required, for the first time, to work on Saturdays. Johnson protested of Brandon's action to Young, explaining that the display advertising men felt that they had been required to work Saturdays because of their Guild activities. Young admitted Brandon's action was hasty, and that he would do his best to correct this situation. Within about four weeks the situation complained of was corrected. The period from December 15, 1936, up to and including May 16, 1938, was taken up with bargaining negotiations between the respondent and Guild negotiators. On May 14, 1938, Johnson was discharged by notice dated that day, the discharge to be effective at the close of that day. The notice of discharge was found by Johnson when he reported for work that morning, and removed the cover from his typewriter. The reason for his discharge stated in the notice was "in line with the reorganization of the Editorial Department." On the following day the unit took a strike vote which resulted in the calling

of a strike for the morning of May 17, 1938. Palmer was advised of the strike vote and requested to unconditionally reinstate the discharged member of the Editorial Staff, namely, Johnson, Scott and Elizabeth Yeaman. The request for reinstatement was refused. On May 17, 1938, the strike became effective. Johnson has not obtained other work since his discharge.

11. The contention of respondent was that Johnson was discharged because Palmer "deemed it advisable" to retrench; that the retrenchment plan decided upon by him required the discharge of one of the three general reporters, Simonton, Calkins or Johnson; that since Simonton was the best reporter of the three, and Calkins had in addition to the qualifications possessed by Johnson, that of being an acceptable photographer and a capable deskman; they, Simonton and Calkins, were to be retained and Johnson discharged. Shortly subsequent to the commencement of the bargaining negotiations and during the early part thereof, Palmer had intimated the possibility or probability of retrenchment and later stated that "we are facing retrenchment." In reaching his decision that retrenchment was deemed advisable, Palmer considered the lineage figures of the Citizen-News, the bookkeeper's figures on profit or loss on the Citizen-News and the fact that he generally knew that expenses were up.

12. The advertising lineage of the Citizen-News for March, 1938, has decreased about 15½% below

March, 1937, and for April, 1938 about 121½% below April, 1937. The classified advertising revenue of the Citizen-News reached its highest point in the first six months of 1937.

13. The profit or loss of the Citizen-News for the first five months of 1938 and of 1937, was as follows: January, 1938, loss \$1251.00; January, 1937, profit, \$2450.00; February, 1938, profit, \$849.99, February, 1937, profit, \$3114.00; March, 1938, loss \$1437.00, March, 1937, profit, \$6974.00; April, 1938, profit, \$941.00, April, 1937, profit, \$8954.00; May, 1938, loss \$917.00, and May, 1937, profit, \$5577.00, the first five months of 1938 showing a loss of \$1814.00, as compared to a profit of \$27,069.00 for a like period in 1937.

14. The price of newsprint had gone up about 17% about January, 1938. At about this time respondent raised its subscription and advertising rates. Expenses had increased since July, 1937, due to increased labor costs, old age pensions and unemployment insurance; but, there was no testimony offered as to the amount of the increased cost.

15. The fact that the respondent was a party to a controversy then pending before the National Labor Relations Board, the cost of which Palmer estimated would be \$10,000.00, was also a factor considered in concluding that retrenchment was advisable.

16. At no time during any of the meetings between the respondent and the Guild Negotiating Committee, at all of which meetings a considerable

number of unit members were at all times in attendance, nor at any other time, did the respondent advise or make any explanation of the circumstances or facts relating to respondent's business necessitating or making advisable a retrenchment program except a general statement that advertising was off and expenses up.

17. The respondent, in editorials prepared by Palmer, contended that it had "the fundamental right to engage whatever employee it chooses for editorial room work" (Editorial of May 17, 1938) and "inasmuch as he must be responsible for meeting the payroll he should have the right to regulate the size of his staff and to determine who should prepare the newspaper's reading matter, for which he is also responsible". (Editorial of June 9, 1938).

18. At the close of the meeting of May 13, 1938, between the Guild Negotiating committee and respondent, it was announced by respondent's attorney that three employees would be discharged and an offer was made to disclose their names. This offer was not accepted. During prior meetings with the negotiators, Palmer had plainly indicated the two employees in particular would have to go if he acceded to the Guild's demands, namely, Stanley Speer and Alex Swan. Sometime before this meeting with the negotiators, he also had been advised that Mae Hobart, an employee of the editorial department of the Citizen-News, was resigning as of July 1, 1938.

19. The respondent further contended that the newspaper was out of balance in that reading matter of the Citizen-News was disproportionate to its advertising. On or about March 1, 1938, Palmer restricted the size of the newspaper by reducing the amount of reading matter. A considerable portion of the reading matter eliminated had been previously prepared by Johnson. There was no proof adduced that there was ever any substantial difference as to the ratio existing between reading and advertising matter, at any time prior to restriction herein referred to.

20. Respondent also contended that the choice of retaining Calkins in preference to Johnson was predicative of a five-day week, in that Calkins would take over the photographic assignments on the photographer's day off. The five-day week schedule posted by the management on May 15, 1938, did not so provide.

21. Mellier J. Scott, Jr. Scott entered the employ of the Citizen-News July 17, 1935, at an initial salary of \$16.00 per week on a temporary basis to investigate certain phases of the County Government. His prior newspaper experience was a six months apprenticeship with the City News Service. Subsequently he began to investigate certain phases of the City Government. During this period, which lasted five months, he sent in daily letters. He was then requested by Palmer to spend part of his time in the office and commenced writing daily editorials. About six months later he was writing a daily edi-

torial column. During the 1936 political campaign he interviewed candidates, and also represented Palmer at luncheons and dinners. About May, 1937, he took over the editorship of the Town Meeting Column (letters from readers). Palmer instructed Scott in the writing of editorials. The writing of editorials had been done practically exclusively by Palmer. During the year 1936, when Palmer was in a sanitarium at Glendale, and later at Santa Barbara, Scott wrote the editorials. Later, while Palmer was in Florida for a period of ten days, Scott wrote several editorials. During the course of his employment he received several increases in salary, and at the time of his discharge was receiving \$40.00 per week.

22. Scott was not asked to join the Citizen-News unit of the Guild immediately and did not join until about the unit's third meeting, late in 1936. Scott was active in Guild matters, serving of the Guild and unit nominating committees and made several addresses relating to the Guild.

23. A. A few days later Scott, during luncheon with Palmer, told him he had joined the Guild. Before this Palmer occasionally asked Scott to lunch; but, after this incident, he did not. Prior to this incident Scott frequently was present when business of a personal or confidential nature was being considered by Palmer, Young and Swisher; but, after he was not. During his editorial work Scott, on many occasions, discussed labor relations in general with Palmer, but never as between

Palmer and his employees; in March, 1938, Scott's request for a two month leave of absence was denied, and he was advised by Palmer that in any event there was no assurance he would have a job at the end of two months. The circumstances of Scott's discharge were similar to those relating to the discharge of Johnson.

24. The contention of the respondent was that he "DEEMED IT ADVISABLE" to retrench and that the retrenchment program decided upon by him after a study of the five-day week required the elimination of three from the editorial staff, one of whom was Mel Scott, a member of Palmer's immediate staff. Respondent's contentions as to retrenchments have been heretofore discussed. As to the five-day week, there is no testimony to evidence in what way, if any, Scott was affected.

25. Elizabeth Yeaman. Miss Yeaman entered the employ of the Hollywood News on September 13, 1929. Her prior newspaper experience was as follows: While attending the Pulitzer School of Journalism she had occasionally sold feature articles to the Sunday World (N. Y.) and syndicated a series of articles on a new drug cure with the North American Newspaper Alliance. After her graduation she became city editor of the Fur Trade Review Weekly (N. Y.), and held this position eight months. Shortly thereafter she came to Los Angeles, and obtained employment in the classified advertising department of the Los Angeles Express.

26. She was first employed by the Hollywood News as assistant Society-Editor and then as Society Editor at \$25.00 per week. During March or April of the following year she became drama editor at \$27.50 per week, which position she held until sometime about July, 1937. During her employment by respondent she received several salary increases, and at the time of her discharge was receiving \$45.00 per week. While drama editor she specialized on a motion picture column, particularly the Saturday column in which she attempted to review and list developments, trends and significances in the motion picture industry that were covered by no other writers, avoiding the usual movie-gossip. Until June, 1936, her relations with Palmer were friendly, happy and pleasant, and in him she had utmost confidence, being accustomed to discuss with him all problems arising in connection with her work. During this period her work was criticized but once. After the July 4th, 1936, issue of Office Gossip, containing the notice hereinbefore referred to in paragraph 10, she did not call upon Palmer as she previously had since she and other employees of the editorial department felt that free access to Palmer had been cut off.

27. Miss Yeaman became a member of the Guild in 1936, and the Secretary of the unit upon its organization, holding that office at the time of the hearing. A number of the unit meetings were held at her home. In December, 1936, advised by Fisher, in the advertising department, that Brandon, upon

Fisher's suggestion that a motion picture supplement be published, had stated that she would block everything attempted by the advertising department with the studios. Miss Yeaman, assisted by Fisher and Badovinac (theater advertising salesman), supervised the publication of a 32 page Academy Awards Edition, which was published first prior to the annual awards in the motion picture industry made by the Academy of Motion Picture Arts and Sciences. This was the first time respondent had received any advertising from the motion picture studios, and resulted in the respondent being placed on the studios' annual advertising budget. In discussing this matter with Young she asked him to at least give her collaborators a word of encouragement. She called Young's attention to the paragraph in the Office Gossip of July 4, 1936, and explained that since its publication she did not feel free to call on Palmer. Young advised that he suggested to Palmer the matter complained of because certain persons were disrupting the personnel. Miss Yeaman stated to Young that it would have been better to take the matter up personally than to make each and every loyal employee feel that it was intended for him. A few days after the meeting held in June, 1937, attended by James Francis Crow, then assistant to Miss Yeaman, a committee representing the editorial department, and Palmer and Young, representing the management for the purpose of discussing an agreement on rates of pay, wages, hours, and other working conditions, herein-

before referred to in paragraph 10, Miss Yeaman was called into Swisher's private office and by him notified that James Francis Crow had been made head of the drama department. Miss Yeaman stated that Crow made up the page, edited the copy and wrote the heads, all technically the work of a drama editor, and if Crow wanted the title and Swisher felt he should have it, it was perfectly all right with her. Swisher stated that there was to be no announcement of the change and that her duties and those of Crow would remain the same. On the following day, an appointment having been made with Palmer, she asked Palmer whether he considered that she had been demoted. His reply was "Elizabeth, I don't care what you think." Upon being questioned as to why Crow had been notified several days before Miss Yeaman had been, Palmer became enraged. When asked whether or not the manner in which the change was made had not for its purpose the arousing of suspicion between Crow and Miss Yeaman, fomenting of discord in the editorial department, thereby breaking the Guild, Palmer became quite calm and said, "Elizabeth, you mean you think perhaps you could break the Guild?" Upon receiving an answer in the negative Palmer launched an attack of cursing directed at Miss Yeaman. Upon being chided as to his bravery, as a man and employer, in cursing Miss Yeaman, he launched into another attack of cursing. As Miss Yeaman was departing Palmer advised her to feel perfectly free to accept any other offer of employment or to re-

main as long as she liked. Miss Yeaman was discharged on May 14, 1938, and the circumstances relating to her discharge were similar to those in the cases of Johnson and Scott.

28. The respondent's contention is that Palmer "deemed it advisable" to retrench and the retrenchment program decided upon required the dismissal of three editorial employees; that Miss Yeaman could be better spared than Crow; that the work she had been doing relative to motion pictures would be cared for by such motion picture production news as came in by mail; two other columns which were in the paper, Skolsky of the King's Feature Syndicate and Ed Sullivan of the New York Daily News Syndicate, copies of which were left with respondent as written. These were not the same type of columns as that conducted by Miss Yeaman, but were related to the motion picture industry. Respondent's contention as to retrenchment has been heretofore discussed.

29. The restrictions upon reading matter referred to in paragraph 19 resulted in the drama department being required to run short reviews. The actual space used by this department remained about the same. The wire stories were used without any cutting and sometimes news stories were used to fill in the space; but, in any event, the reviews remained short, irrespective of the importance of the review. The work of the department was increased as a result of the restriction on reading matter.

30. Karl Von Vetler Schlichter. Schlichter was first employed by the Citizen-News in 1934, at which time he made a market survey through the University of Southern California. In March, 1936, Young offered him the position of commercial researcher and promotion manager on the newspaper. At the time the offer was made Schlichter was employed and had a civil service rating. He advised Young of this and the fact that he had considerable security, presumably for the rest of his life. Young stated that the respondent was not the type of an organization that fired satisfactory people. Young suggested that Schlichter secure a six months leave of absence and come to work for the Citizen, and if at the end of that time his services were satisfactory and he was satisfied, he could consider his position as secure as that under civil service. He entered the employ of the Citizen-News at a salary of \$35.00 per week, and at the time of his discharge was receiving \$42.50. His work with the newspaper was largely investigational and statistical, gathering market information as to certain products, breaking it down and presenting it in a readily understandable form to promote advertising in the Citizen-News. His work was equally divided between research and promotion. This type of work he had been doing since his second year in college, and prior and subsequent to graduation had done the same type of work for two other newspapers.

31. For one and one-half years prior to his discharge he had been engaged in preparing market

facts relating to Hollywood. These figures had never been previously available since the census of business of Los Angeles had never been broken down to show a census of Hollywood business. Just before his discharge the Federal Government had prepared a breakdown of the last three censuses of business. At the time of his discharge he was engaged in breaking down these figures for promotional advertising. During the strike, while he was in the picket line, the classified advertising manager requested him to solve a problem in commercial statistics, stating that there was no one then with the newspaper who could do it. Schlichter became a member of the Guild in June, 1937, in point of time being the second of his department to join. Shortly thereafter, the manager of the classified advertising department, in conversation stated that the editorial workers were making a serious mistake in attempting to get higher wages and further stated, "the Judge will never sign a union contract." Schlichter was required to attend meetings of the display salesmen nearly every morning. Harry Brandon, respondent's advertising manager, presided at these meetings. On several occasions Brandon discussed unions during the entire meeting. On one occasion he stated that "the white collar workers like us are going to get ourselves some guns and go out and shoot the union bastards." On another occasion he stated that the men were not working hard enough, that in the old days newspaper men worked 12 and 16 hours a day and "now

all they want to do is put in eight hours and watch the clock." For this he blamed the Guild. In one meeting Montrose, during a discussion of the demands to be made by the display advertising employees of the respondent, moved that the management give Brandon the right to hire and fire. Montrose was one of the two Guild members in good standing who did not go on strike. At the date of the hearing he was acting as manager of the advertising department. He had joined the Guild, according to his statement, because he believed Palmer would some day be a friend of the Guild. It was shortly thereafter that Brandon's application for Guild membership was rejected. After the vote was had rejecting this application Montrose, who had spoken at great length favoring acceptance thereof, stated, "* * * you are going to be sorry that you didn't accept him." A few days later at a sales meeting Brandon said "You fellows certainly have tried to screw me up." At another meeting shortly subsequent Brandon said "You fellows aren't working hard enough. You are thinking too much of unions, and you are not doing your work." In November or December of 1937, in discussing the Guild with Schlichter and an employee of one of the Hearst papers, Brandon, referring to the settlement of the Guild dispute in the East, stated that he would be ashamed to belong to any organization that had settled a dispute in a way that resulted in the lowering of some salaries of the employees of the paper. After the departure of the other person

Brandon advised Schlichter that the Citizen-News editorial workers were not worth greater salaries than they were getting, and that they couldn't hold a job on any other Metropolitan paper. That since they had been told that if they didn't like conditions they could get jobs elsewhere; but continued to work for the Citizen-News, he, Brandon, felt that they were satisfied. In late October, 1937, Brandon, while discussing unions at a meeting of the advertising department held in Palmer's office, stated the men were not working hard enough and would have to think more of their work, and announced that thereafter they would have to work on Saturday mornings. When objection was made to this announcement on the ground that there was not much to do on Saturday morning as advertising could not be sold on that morning, Brandon replied "Come Saturday mornings and sit at your desk, keep working at your desk, and smell your own feet stink." This Saturday work lasted but three or four Saturdays. Two or three weeks before his discharge Schlichter was in Young's office discussing his work. On this occasion Young stated that business was very poor, which was not being considered by the Guild in negotiating the contract; that the Guild negotiators were not interested in getting a contract but only in prolonging discussions to get more money; that severance pay was no protection to workers since it forced the management into a schedule of firing; that a progressive wage scale was no protection since the management could obtain people to work year

in and year out for approximately the same salary; that the management had no reason to give higher wages; that two people would have to go, one of whom was Speer, giving as a reason that they couldn't let him progress because of a defect of speech and inability to do the work. Brandon phoned on Saturday, May 14th, asking Schlichter to come to his office. As Schlichter was not at work that day it was arranged that he call at Brandon's office Monday morning, May 16th, at 7:30 A. M., at which time he was discharged. Schlichter has not obtained any other work since the date of his discharge.

32. The contention of the respondent that there was a surplus of help in the business department; that Schlichter's work was a lesser job, primarily for national advertising which was off 40%, and that therefore his position could be eliminated. The further reason was given that in years previous respondent had operated without an employee doing work such as was done by Schlichter. On or about April 1, 1938, Palmer informed Young that he thought it advisable that he reduce the business staff. On the 14th day of May Young recommended the discharge of Schlichter.

33. As previously set forth, Schlichter, at the time of his discharge, was actually engaged in the final phases of an important research task upon which he had been working since his employment, and, after his discharge, while in the strike picket line had been asked by the classified advertising

manager to solve a problem in commercial statistics.

34. Respondent offered no testimony other than that of Palmer. There was no denial of any of the foregoing acts or statements done or made by any of respondent's management.

35. That said Roger C. Johnson, Mellier J. Scott, Jr., and Elizabeth Yeaman were discharged by respondent on May 14, 1938, through its officers, agents and servants; namely, Harlan G. Palmer, Harwood Young, Harold Swisher and Harry Brandon, and the said Karl Von Velter Schlichter was discharged on May 16, 1938, by respondent through its officers, agents and servants, namely, Harlan G. Palmer, Harwood Young and Harry Brandon, and all the said persons have been refused employment by said respondent for the reason that said Roger C. Johnson, Mellier J. Scott, Jr., Elizabeth Yeaman and Karl Von Velter Schlichter joined and assisted a labor organization known as Los Angeles Newspaper Guild and engaged in concerted activities for the purpose of collective bargaining and other mutual aid and protection.

36. By said discharge and refusal to employ said Roger C. Johnson, Mellier J. Scott, Jr., Elizabeth Yeaman, and Karl Von Velter Schlichter, respondent has discriminated and is discriminating in regard to hire and tenure of employment guaranteed in Section 7 of the National Labor Relations Act.

37. By said discharge and refusal to employ Roger C. Johnson, Mellier J. Scott, Jr., Elizabeth

Yeaman and Karl Von Velter Schlichter, respondent has interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act.

38. By said discharge and refusal to employ Roger C. Johnson, Mellier J. Scott, Jr., Elizabeth Yeaman and Karl Von Velter Schlichter, respondent has discouraged membership in the labor organization known as Los Angeles Newspaper Guild.

B. Interference, Restraint and Coercion.

In addition to the several acts of interference, restraint and coercion hereinbefore set forth in paragraphs 10, 23, 27 and 31, the undersigned makes the following additional findings of fact:

39. In the early part of 1937, shortly after the employees of the advertising and business departments had become eligible for membership in the Guild and some had joined the Guild, the respondent attempted to negotiate an agreement with the employees of the classified advertising department as to rates of pay, wages, hours of employment and other conditions of employment. The respondent was represented by Tobin, head of the department and Young, its business manager. Upon refusal to sign the agreement the employees were advised that if the management felt it necessary to cut salaries that department would be the first to suffer.

40. In December, 1937, Zuma Palmer, radio editor, sister of Harlan G. Palmer, and excluded

from unit membership by reason of this relationship, requested Helen Ewing of the respondent's editorial staff and not at that time a Guild member, not to join the Guild without first talking to Harlan G. Palmer, stating that it was very ungrateful of any editorial employee to join the Guild.

41. In January, 1937, after the said Helen Ewing had joined the Guild the said Zuma Palmer expressed her anger towards the said Helen Ewing for joining the Guild without first having consulted Harlan G. Palmer.

42. On May 16, 1937, the said Zuma Palmer advised the said Helen Ewing to turn in her Guild card and go to Swisher and get her job back since two had already asked for their jobs back.

43. Shortly before June 21, 1937, said Zuma Palmer stated to Wesselman, photographer and a member of the editorial staff, who was not then a member of the Guild, that she resented Johnson's Guild activities as being disloyal to Palmer and a violation of Palmer's faith in Johnson whom he had helped materially.

44. Sometime prior to the time Swan, an employee of respondent's editorial department, became a Guild member (December, 1937) the said Zuma Palmer did "remind" the said Swan of how fair Palmer had been and stated that it was ungrateful of the employees to start a Guild or join it.

45. On the day before the strike became effective, May 16, 1938, Harwood Young, respondent's busi-

ness manager, advised the said Wesselman that the editorial employees had received bad advice from the negotiators that the employees had been sold down the river and that the signed contract between the Guild and respondent was in the mails.

46. On the day before the strike became effective, May 16, 1938, the said Young advised the said Wesselman that the discharges were made before the contract had gone in force to notify the Guild just what was to take place.

47. Cross, who took over the said Wesselman's duties, was employed about a week before the strike to take pictures on an assignment basis, which pictures Wesselman developed.

48. On several occasions, Young, in discussions with Crow, who had become respondent's drama editor under circumstances heretofore related, objected to the Guild's use of outside negotiators and criticized the Guild for not being more concerned with ethics and less concerned with wages.

49. On or about December 1, 1937, Swisher, on several occasions while Reuter, Lindsay and Watts, copy readers employed by respondent and members of the Guild, were engaged in handling strike news, remarked that the C. I. O. had gone too far and at the time the remarks were made he knew the three aforementioned copy readers were members of the Guild and that the Guild was a C. I. O. affiliate.

50. As early as April, 1938, Swisher intimated to one Harry Reynolds, an applicant for a position

with respondent, that there was a possibility of a strike, intimating that the Guild was dictating whom the management should hire.

51. Harold Hubbard, respondent's city editor, on the day before the strike, asked Minishian, head of respondent's art department, whether or not he had a friend that wanted an art job, meaning thereby Minishian's job, and this query was made before Minishian had indicated to any one whether or not he was going on strike.

52. Horace Turner, head of respondent's job printing department, in January, 1938, stated that if Johnson did not watch his step his Guild activities would jeopardize his job.

53. On May 16, 1938, Harry Brandon advised Patricia Killoran, referred to as fashion editor, a Guild member, that he was discharging Helen Blair Thurlby, a Guild member, her assistant, although there was no fault with her work. Patricia Killoran objected to the discharge for the reasons that she could not do the work alone and that she and Helen Blair Thurlby had considerable overtime, 40 hours in the case of Killoran and Thurlby had \$40.00 due her as wages for the week, although her pay based on a 40 hour week was but \$26.00. Brandon stated discharge was due to "Guild Stuff".

54. Brandon, after the strike was called, advised the said Killoran and Blair that if they were smart they would get out of the Guild.

55. Brandon, in the fall of 1937, issued a secret order to the advertising department employees, to

the effect that no advertising or publicity copy was "to go upstairs" after 6 P. M. The night shift "upstairs" were all union members.

56. Montrose, while strike was in effect, argued with pickets in the presence of a unit member, Calkins, that the strike was an "outlaw strike."

57. Swisher, on numerous occasions, during the period of negotiations, and while being driven to work by Alexander Swan, told Swan, employed as a reporter-librarian, and a Guild member, that if negotiations continued he would be negotiated out of a job.

58. Palmer, at one of the negotiating meetings, stated that although he liked the incumbent (Swan) of the position of librarian, he was not worth the top minimum.

59. During several of the negotiating meetings, between respondent and the Guild negotiators, Palmer attempted to establish or at least to cause considerable discussion of sub-marginal classifications and top minima wages therefor, when as a matter of fact those occupying such positions were receiving more than the proposed minima wages, thereby indicating to the editorial employees occupying such position that wage reductions might result from continuance of negotiations.

60. During several of the negotiating meetings, Palmer attempted to establish or at least cause considerable discussion of a wage differential between men and women reporters of more than three years experience, thereby indicating to the

women editorial employees of respondent that as a result of the continuance of negotiations or change from the then established arrangement dismissals of women would be made.

61. During one of said negotiating meetings Palmer stated that respondent intended to do away with police reporting and substitute therefor the City News Service, meaning thereby that Calkins, who did the police reporting and who was a most active Guild member, might be dismissed if negotiations continued or the then existing arrangement was disturbed.

62. There is no denial of any of the acts set forth in paragraphs 39 to 61 inclusive. Explanation of matters set forth in paragraphs 59, 60 and 61 was offered that such matters were proper discussion of possibilities likely to arise if Guild proposals were adopted. Dismissals did result but were not within the possibilities discussed.

63. By the activities hereinabove described, the respondent has interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

64. By said activities respondent has discouraged membership in a labor organization known as Los Angeles Newspaper Guild.

C. The Refusal to Bargain Collectively in Good Faith With the Los Angeles Newspaper Guild.

1. Collective Bargaining prior to negotiations with the Guild.

65. In June, 1936, prior to the organization of the Guild and the Citizen-News unit thereof, a petition was circulated among seven or eight of the Editorial Department of the Citizen-News, of whom, among others, were Roger Johnson and Elizabeth Yeaman, setting forth among other things the belief of the petitioners that they were underpaid. This petition was submitted to Harlan G. Palmer. Subsequently, and pursuant to a posted notice, the members of the Editorial Department called individually upon Palmer to discuss their problems; but, however, during these conferences with Palmer, there was no discussion of wages and hours. Shortly afterwards, there appeared in Office Gossip, the July 4, 1936, issue, the mimeograph sheet published by the management and distributed to employees with their pay checks, a notice to employees hereinbefore referred to in paragraph 10. All matters of rates of pay, wages, hours of employment, or other conditions of employment relating to respondent's editorial employees, were treated as personal and individual during this period.

2. The appropriate unit.

66. The respondent admits and it is the fact that the Los Angeles Newspaper Guild is now, and has been, the exclusive representative of all employees of its Editorial Department for the purpose of collective bargaining.

3. Negotiations with the Guild.

67. The complaint alleges that the respondent did, on or about December 1, 1937, refuse, and

at all times since said date has, and does now, refuse to bargain collectively in good faith with the Guild as exclusive representatives of all employees of the Editorial Department of the Hollywood Citizen-News.

68. The negotiations between respondent and the Guild were initiated on December 15, 1937, by letter of that date, addressed to Judge Harlan G. Palmer, publisher, by the Guild, and signed by its Executive Secretary, C. H. Garrigues. This letter suggested that the Guild negotiators meet with Palmer on December 17, 1937. Palmer's reply of December 16th suggested December 22nd for the meeting, which date was accepted by the Guild.

69. The negotiations on the part of the Guild were conducted by a committee of Guild members, none of whom were unit members, selected by the Executive Committee of the Guild. During the period of negotiations there were numerous meetings. In addition to the meetings held on December 22, 1937, January 14, about February 10, March 22, March 25, April 6, May 6, May 13 and May 16 1938, there were several meetings held prior to March 14, 1938, the dates of which cannot be fixed. All the negotiators were not at all times present at the meetings. C. H. Garrigues and Philip M. Connelly, of the committee, were most active throughout the negotiations. During the early period William Oliver was quite active and during the later period Urcel Daniel. Harlan G. Palmer attended and actively participated in all meetings

as a representative of the respondent, except the meetings of March 22 and 25, 1938. Willis Sargent, respondent's attorney, first appeared at the March 22, 1938, meeting. Young, respondent's business manager, attended all meetings, excepting that of May 16, 1938. Swisher, respondent's managing editor, attended a greater portion of the later meetings. At all the meetings, excepting that of May 16, 1938, there were a considerable number of unit members present.

4. Meeting of December 22, 1937.

70. At this meeting the Guild was represented by C. H. Garrigues, William Oliver, Charles Wathey, members of its negotiating committee, and during the latter part of the meeting they were joined by Philip M. Connelly. The respondent was represented by Palmer and Young. The Guild negotiators presented a proposed agreement for the consideration of the respondent. This agreement was read paragraph by paragraph, and after each paragraph there was a discussion between the negotiators and the respondent's representatives. Article II of the agreement proposed the Guild Shop, that is, requirement of Guild membership for employment in the Editorial Department. When this paragraph was read Palmer said "There will be no Guild shop, we might as well get that settled right now." There was some discussion as to whether Palmer would continue to negotiate for the respondent or employ an outside negotiator. Palmer was asked by Oliver "would a representative have

authority to grant the Guild Shop if we are able to convince them that it is a good thing?" Palmer replied "I would not hire a representative who believed in the Guild Shop." Palmer did not intend to negotiate an agreement. He also stated that he would listen to what the negotiators had to say but when it got down to "bickering" he would have someone else do that. He termed the discussion of the points at issue "bickering." He referred to the proposed agreement as a dishonest document, stating that the proposals and requests were in excess of those which the staff wanted or expected to get, and that he could not give an honest answer as the proposal was dishonest. The Guild representatives attempted to fix an early date for the second meeting. Palmer was hesitant in fixing the time for the next meeting, stating that he was busy with his semi-annual adjustments and therefore uncertain as to when he would have available time. The Guild negotiators pointed out that it was their desire to conclude negotiations as to salary so as to have adjustments made effective as of the first of the year, the time of the respondent's semi-annual salary adjustments. Palmer would not definitely set the time for the next meeting, stating he would communicate with the Guild through the mail. By letter dated January 4th, there were transmitted to the Guild duplicate copies of changes that the respondent contended should be made in the contract previously submitted and discussed. By letter dated

January 11th, addressed to Palmer, setting forth that the Editorial Department members of the Guild could not understand the attitude of the management on points involved, the Guild requested an early meeting with Palmer to inquire into the counter-proposals of the management. A meeting was arranged for January 14 at 5 P. M.

5. Meeting of January 14, 1938.

71. This meeting was held in Palmer's office, Garrigues, O'Connor, Oliver and Connelly represented the Guild and Palmer and Young the respondent. The respondent's counter-proposal was discussed. The original proposal of the Guild contained a clause to the effect that the Guild was the exclusive bargaining agency for the Editorial employees. Although this had been previously acceptable to the respondent it was eliminated in the counter-proposal. The Guild Shop clause was also eliminated. The classification of employees was changed so that two heretofore considered by the Guild to be employees of the Editorial Department were not subject to the negotiations. The wage scale set up in the counter-proposal was considerable lower and a top-minimum salary for women reporters of more than three years experience was fixed at \$35.00, a figure lower than that established for men. The provisions as to severance pay benefits and liquidation of overtime differed considerably. Sub-marginal classifications were proposed; that is, if a member of the staff were doing, for example,

general reporting, and was acting as librarian, he would be classed as a librarian and placed in the lower pay bracket applicable thereto.

The question of Guild Shop was not discussed due to Palmer's attitude expressed at the first meeting. The negotiators presented for the respondent's consideration the alternative of the Guild Shop, or high severance pay. Palmer ruled out all discussion of the Guild Shop. His attitude as to severance pay was that he would be required to set up a fund which could not be permitted to accumulate beyond a certain level and that when this level was reached employees would have to be discharged. He stated that severance pay would make respondent a "firing organization" and give the employees the opposite of security. Severance pay, however, had been put in effect by respondent as early as July, 1937. Patricia Killoran and Helen Blair Thurlby, who had heretofore been considered members of the editorial staff by the unit, were excluded from the operation of any agreement by classifications set forth in the counter-proposal. Palmer brusquely remarked that they were not under the contract and if they didn't know it they should find out. Killoran did publicity work and was referred to as fashion editor, writing special news stories for the advertising department. Palmer stated that women reporters were less versatile than men and unless there was a salary difference it would not be feasible to keep women reporters. There was also discussion of the question

of overtime and 5-day forty hour week. Palmer contended that the Citizen-News was not of sufficient size to permit a 5-day forty hour week, since it would be impossible to arrange schedules. Upon being advised that the 5-day week was to increase employment and that by the adoption thereof he could reasonably expect to employ additional help, Palmer stated there would be no 5-day week if it meant employing additional people. The original proposal contained a provision: "There shall be no reduction in pay of any employee and no reduction of personnel as the result of this agreement or of the negotiations which led to its execution." This was eliminated in the counter-proposal.

6. Meetings during period January 14 to March 22, 1938.

72. Between the period of January 14th and March 22, 1938, there were several meetings of the negotiators and respondent's representatives, Palmer and Young, the exact dates of which can not be fixed. At about this time Crow had a discussion with Swisher with reference to Guild Shop, and its meaning, and upon being informed by Swisher that he favored a Guild Shop it was determined by the unit members, in view of Swisher's attitude, to reopen the question of Guild Shop. At the next meeting of negotiators and respondent's representatives, the subject of Guild Shop was again brought up for discussion. Palmer reiterated his previous stand that there would be no Guild Shop. He further

stated that if he accepted the Guild Shop he would have to run a mast head in the Citizen-News, advising the readers thereof to beware, since the news was written by newspaper guild members. By a letter dated February 9th, the respondent submitted to the Guild a counter-proposal which was directed to the original proposal made by the Guild. This counter-proposal eliminated the Guild as a bargaining agent and the Guild Shop, set up sub-marginal classifications, a differential in salary against the women reporters, rejected the 5-day week, and accepted in part the Guild's proposals as to overtime and severance indemnity. The provision relating to "no reduction in personnel" was also rejected. On the 23rd of February, 1938, the Guild addressed a letter to Palmer, apologizing for failure to send the outline of the Guild's then position which had been promised at the last meeting, explaining that the negotiating committee could not give the Hollywood Citizen-News negotiations the attentions which they deserved. This letter also advised that the unit had met and considered the issues involved, and that as soon as the decisions referred to could be digested they would be forwarded to Palmer. By letter dated March 9, 1938, addressed to Harlan G. Palmer, general manager of Hollywood Citizen-News, the Guild set forth its then position as to the various issues involved in the negotiations. The issues discussed in the letter were Guild Shop severance pay, 5-day week, overtime, and wages, clas-

sifications of employees and mileage. The Guild and the respondent were substantially in accord as to severance pay and overtime, the Guild offering to accept the severance pay clause proposed by respondent to expedite negotiations. By letter dated March 14, 1938, Palmer notified the Guild that he had retained Willis Sargent to represent the respondents, in an effort to complete a contract with the Guild, also advising the Guild that he had instructed Sargent to arrange with them for a conference. On March 19th, the Guild, by letter addressed to Palmer, requested a meeting for March 22nd. This letter also contained a request from the Guild that Sargent have no communications with any Guild representatives except in the presence of the Guild negotiating committee, the unit observers and the executives of the Citizen-News.

7. Meetings of March 22 and March 25, 1938.

73. At these two meetings the respondent was represented by Sargent, Young and Swisher. Palmer was not present. The Guild was represented by Garrigues, Connelly and Miss Daniel. The Guild negotiators at the first meeting at which Sargent appeared, questioned him at considerable length as to his authority to negotiate, and it appeared that Sargent did not have fully authority. Sargent insisted upon discussing each and every issue presented by the original Guild proposal. This procedure was objected to by the Guild negotiators since as to certain issues they had reached an agreement

with Palmer, one of these issues being severance pay, which agreement was repudiated by Sargent. The negotiators explained to Sargent that they were under instructions not to communicate with him outside the negotiation meetings. Some time previous Sargent had acted for the management of the Glendale News Press in its controversy with the Guild, out of which situation there had arisen considerable feeling of bitterness and animosity, Sargent's frequently referred to the Glendale News-Press controversy thereby aggravating the feeling of bitterness and animosity. This first meeting apparently resulted in nothing but a general discussion of the whole situation which had been apparently reopened by Sargent.

74. At the second meeting with Sargent, May 25, 1938, the various paragraphs of the Guild's proposals were taken up, item by item, the Guild negotiators attempting to get acceptance or rejection from Sargent, who generally stated that he would have to refer the matter to Palmer.

75. On the 25th of March the Guild addressed a letter to Judge Harlan G. Palmer, expressing a sincere belief that further discussion with Sargent would be fruitless, and expressed the hope that personal conference with Palmer would result in a satisfactory adjustment of all differences. By letter dated March 28th Palmer advised the Guild that he would communicate with it within a few days, and on April 2nd telegraphed Garrigues sug-

gesting a meeting for the 5th, which meeting, as finally arranged, was held on the 6th.

8. Meeting of April 6, 1938.

76. At this meeting the management was represented by Sargent, Young and Swisher, the Guild by Garrigues, Connelly and Miss Daniel. At this meeting there was a general discussion as to the various issues involved, and particularly as to the classifications of employees. The Guild's contention was that those employed in the sub-marginal group were receiving pay in excess of the top minimum proposed by respondent, and would as a result of adopting respondent's proposal, be eliminated. Palmer's contention was that if the sub-marginal classification came out it would result in firing the least experienced as their experience increased. This contention was answered by the Guild to the effect that as their experience increased they could look elsewhere for employment. It was about this period of negotiations that Palmer commenced to restrict reading matter in respondent's newspaper, and also had distributed to employees a "notice concerning the payment of partial unemployment compensation" addressed to those employees earning less than their weekly benefit amount for total unemployment because of reduced earnings with their regular employer.

77. On April 16th, by letter addressed to the Guild, Palmer submitted the third counter-proposal of the respondent. This counter-proposal recognized

the Guild as the "authorized agent" for the purpose of collective bargaining; but did not recognize the Guild Shop. Sub-marginal classifications were retained. The counter-proposal provided for the establishment of a 5-day forty hour week, overtime and severance pay. At this meeting considerable bitterness arose between the Guild negotiators and the respondent, resulting from further references to the Glendale situation, the respondent insisting that there was a contract in that case, and the Guild negotiators insisting that it was nothing but an unilateral posting.

78. On April 21st Philip N. Connelly addressed a letter to Judge Harlan G. Palmer, requesting another meeting for the purpose of clarifying some of the terms of the respondent's proposal of April 16th, and also making certain changes. This letter expressed the belief that the proposals of April 16th formed a basis for an acceptable agreement. On April 22nd Palmer addressed a letter to Connelly requesting that the clarifications and specific changes sought by the unit be submitted in writing, and by letter dated May 2, 1938, the respondent was advised of the changes requested by the Guild in respondent's third counter-proposal. A meeting was arranged for May 6, 1938.

9. Meeting of May 6, 1938.

79. At this meeting the Guild was represented by Garrigues, Connelly and Miss Daniel, and the respondent by Palmer, Sargent and Young. The

differences which had existed were again presented by the Guild and Palmer readily agreed to the Guild proposals with little, if any, discussion on his part, except as to the elimination from respondent's proposal of the sub-marginal classification clause. This was finally agreed to by Palmer. At this stage of the discussion Sargent remarked "I hate to think what that's going to mean to the jobs of a lot of people here" and also remarked that "I don't want to see the Judge agreeing to a lot of things here now that will result in firings." Palmer pointed out Swan as one who would have to go. There was only one question left undecided which was liquidation of over-time. Palmer desired to consult his managing editor responsible for making up of schedules. The following clause had been agreed upon: "The publisher retains full power and discretion, save as limited or prohibited by law, to employ or dismiss employees, including that to determine competency or to preemptorily discharge any employee, and also as to the number to be employed in any department, or as to the duties of each, and may merge, increase or eliminate departments and transfer any employee from one department to another without the violation in letter or in spirit of any portion of this agreement." The provisions as to severance pay were those agreed upon prior to March 14, 1938. On May 11, 1938, the Guild addressed a letter to Palmer, requesting another meeting to discuss the one remaining issue

of overtime, which meeting was held on May 13, 1938.

10. Meeting of May 13, 1938.

80. At this meeting the Guild was represented by Garrigues, and Miss Daniel, and the respondent by Palmer and Sargent. The question of liquidating overtime was discussed at length, although there was no great differences as to this matter. Finally the Guild and respondent reached an agreement on this question. It was understood that Palmer was to send a copy of the proposed agreement to the Guild with a letter stating that it was a confirmed offer. It was also understood the agreement would not be binding until approved by the unit and the executive board of the international. Sargent stated that in fairness to the negotiators they should be advised before the contract was signed that three were to be discharged from the editorial department as a result of a proposed reorganization and to effect economy and that one to be discharged was entitled to a considerable amount of severance pay. Sargent also offered to disclose the names of those being discharged, which offer was not accepted. Palmer was asked whether he would establish a preferential rehiring list. In answer to this query he indicated that he might, and further that it would be of no effect as the persons discharged would not fit in the editorial department as reorganized. Garrigues stated that if the discharges were for the

sake of economy the Guild shouldn't do anything about it.

81. Johnson, Scott and Miss Yeaman were discharged on the day following as is hereinbefore set forth. The notices of discharge also advised that in addition to their regular salary check they would receive vacation and severance pay. Severance pay as tendered had been computed according to the provision of the proposed agreement. It is subject to questions as to whether or not vacation pay, in addition to severance pay, was required to be paid upon discharge.

82. The unit, on May 14th, voted to strike on May 17, 1938. Palmer was advised by wire of this action by the Guild, which also demanded the unconditional reinstatement of the three discharged employees and a contractual provision that there be no dismissals resulting from the signing of the contract. The Guild also requested Palmer to meet with the authorized committee of the Los Angeles Newspaper Guild.

83. On May 16, 1938, by letter of that date, Palmer rejected the demand for unconditional reinstatement, as contrary to contract, agreed upon and also rejected the demand for the contractual provision against discharge for the reason that there can be no compromise on publisher's right to dismissals. He did, however, indicate a willingness to meet with the representatives of the employees. Subsequently on that day the Guild requested a meeting

with Palmer to discuss dismissals, which request was denied.

On this same day Schlichter and Helen Blair Thurlby were discharged as hereinbefore set forth. They were also informed that they would be paid severance pay and vacation pay in addition to earned salary.

Later in this same day a meeting was arranged at the office of Towne Nylander, Regional Director, Twenty-First Region, N. L. R. B., at 6 P. M.

11. Meeting of May 16, 1938.

84. Those present at this meeting were Towne Nylander, Regional Director, Palmer and Sargent for respondent, and Connelly, Johnson, Scott, Miss Yeaman and McWilliams, attorney for the Guild. Towne Nylander proposed that in order to prevent the threatened strike Palmer temporarily put back to work the three discharged editorial employees for a period of one week, and that during this period the Guild and the Citizen-News management attempt to arrive at a satisfactory agreement. Palmer rejected this proposal, and reiterated his stand that in his proposed reorganization these employees were the logical ones to be dismissed; that he had devoted much time and thought to the reasons and did not see how discussions could change the reasons. The real objection of respondent to the proposal, as appeared in an editorial signed by Palmer, and published on May 17, 1938, was that it invaded the management's fundamental right to

engage whatever employees it chooses for editorial room work.

12. The strike following the refusal to bargain.

85. On May 17, 1938, the strike commenced. Sixteen employees of the editorial and two of the advertising department and the five discharged employees (three editorial and two advertising), participated therein; the strike has continued down to the time of the hearing. The Guild in response to an editorial of Palmer addressed "To the Strikers" published June 6, 1938, attempted on the following day to reopen negotiations relative to reinstatement of discharged employees and contractual no-dismissal clause. Palmer replied by wire that conference could be arranged but advised that he "cannot yield to demands for reinstatement and no dismissals." No further discussions were thereafter had.

86. The aforesaid negotiations were not conducted in good faith and were unduly and unreasonably hindered, delayed and prolonged by respondent acting through its officers, agents and servants, Harlan G. Palmer and Willis Sargent, for the purpose of discouraging membership in the Guild.

87. The aforesaid negotiations were not conducted in good faith and were unduly and unreasonably hindered, delayed and prolonged by respondent, acting through its officers, agents and servants, Harlan G. Palmer and Willis Sargent, for the purpose of disrupting and terminating said negotiations at some time prior to an agreement becoming effective.

88. The respondent, through its officers, agents and servants, namely, to-wit, Harlan G. Palmer, Harold Swisher, Harwood Young, Harry Brandon, Zuma Palmer, Harold Hubbard, Horace Turner, and Willis Sargent, did, on or about December 1, 1937, refuse and at all times since that date has refused, and at the time of the hearing does refuse, to bargain collectively in good faith with the Guild as exclusive representative of all employees of the editorial department of respondent's newspaper, Hollywood Citizen-News.

89. The strike was caused by respondent's refusal to bargain in good faith with the Los Angeles Newspaper Guild.

90. The discharge of Roger C. Johnson, Mellier J. Scott, Jr., and Elizabeth Yeaman, on May 14, 1938, by respondent, through its officers, agents and servants, Palmer, Young and Swisher, was for the purpose of disrupting and terminating negotiations prior to an agreement becoming effective.

IV. Interstate Commerce

91. The Hollywood Citizen-News, published by respondent, has a net paid circulation of approximately 29,000. The Audit Bureau of Circulation for the purpose of fixing rates for advertising, had established its net circulation at 26,000. The out-of-State circulation of this publication, the only publication of respondent having such circulation, is about 125 copies or less than one-half of one per cent of its total circulation.

92. The respondent is a member of the Associated Press. It receives and publishes news and intelligence furnished by the Associated Press. This news and intelligence is transmitted from the Los Angeles office of the Associated Press to respondent by means of teletype machines, two of which are located in respondent's plant. This news and intelligence service is also supplemented by a financial wire service furnished by the Associated Press. In the principal cities of the world the Associated Press maintains correspondents through which it transmits news and intelligence occurring throughout the world by mail, telegraph, cable or radio. News and intelligence gathered by any member of the Associated Press is available to members requesting this service and paying the charges therefor. This news and intelligence is transmitted by wire, radio, and the mail.

93. Respondent received syndicated material used in the columns of its newspaper from the following out-of-state sources: George Mathew Adams Service, New York, N. Y.; the Ledger Syndicate, Philadelphia, Pennsylvania; the New York Tribune, New York, N. Y.; Chicago Tribune-New York News Syndicate, New York, N. Y.; Register and Tribune Syndicate, Des Moines, Iowa; McClure Syndicate, New York, N. Y.; McNaught Syndicate, New York, N. Y.; and Ullman Feature Service, New York, N. Y. The amount of such syndicated material used by respondent in the daily paper each day varies

but averages about 16 one-half columns per day, which is approximately one-fourth of the entire space given to news. Approximately 29 columns per day is devoted to news bearing out-of-state date lines, all of which is received from Associated Press or United Press.

94. That out-of-state revenue, that is revenue derived from advertising originating out of the state and published in the Citizen-News, is about ten per cent of the advertising revenue of such paper.

95. The news print used by respondent in all of its publications is approximately 350 tons per month, or a total of 4,342 tons for the year of 1937, all of which comes from the Powell River Company, British Columbia, Canada, and comes to respondent by water shipment to San Pedro, California, and is hauled by truck from the docks to respondent's plant at Hollywood. The cost of this news print is 20 per cent of the total expense of operating the printing activities of respondent.

96. I find that the activities of respondent, as set forth in Section III, occurring in connection with the operations of respondent described in Section IV herein, have a close, intimate and substantial relation to trade, traffic, and commerce among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

CONCLUSIONS AND RECOMMENDATIONS

Upon the basis of the foregoing findings of fact, the undersigned determines and concludes that:

1. Respondent, by discharging and refusing to employ Roger C. Johnson, Mellier J. Scott, Jr., Elizabeth Yeaman and Karl Von Velter Schlichter, and thus discouraging membership in a labor organization, known as the Los Angeles Newspaper Guild, by refusing to bargain collectively in good faith with said Los Angeles Newspaper Guild, and by interfering with, restraining and coercing its employees in the exercise of rights guaranteed in Section 7 of the National Labor Relations Act, as set forth in the above findings of fact, has engaged in and is engaging in an unfair labor practice affecting commerce within the meaning of Section 8 (1) and Section 2 (6) and (7) of the National Labor Relations Act.

2. Respondent, by discharging and refusing to employ Roger C. Johnson, Mellier J. Scott, Jr., Elizabeth Yeaman and Karl Von Velter Schlichter, as set forth in above findings of fact, has engaged in and is engaging in an unfair labor practice affecting commerce within the meaning of Section 8 (3) and Section 2 (6) and (7) of the National Labor Relations Act.

3. Respondent, by refusing to bargain collectively in good faith with the Los Angeles Newspaper Guild, as set forth in the above findings of fact, has engaged in and is engaging in an unfair

labor practice affecting commerce within the meaning of Section 8 (5), and Section 2 (6) and (7) of the National Labor Relations Act.

Wherefore, the undersigned recommends that:

1. Respondent cease and desist from interfering with, restraining or coercing its employees in the exercise of their right to self-organization, to form, join, or assist the Los Angeles Newspaper Guild, or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection.

2. Respondent cease and desist from (a) discouraging membership in the Los Angeles Newspaper Guild, or any other labor organization, by discrimination in regard to hire or tenure of employment or condition of employment; and (b) refusing to bargain collectively in good faith with the Los Angeles Newspaper Guild, the representative of the editorial employees, as hereinabove more fully set forth.

3. In order to effectuate the policies of the Act, respondent take the following affirmative action:

- (a) Offer to Roger C. Johnson, Mellier J. Scott, Jr., Elizabeth Yeaman, and Karl Von Velter Schlichter, immediate and full reinstatement to their former positions without prejudice to their seniority and other rights and privileges;

(b) Make whole the said Roger C. Johnson, Mellier J. Scott, Jr., Elizabeth Yeaman and Karl Von Velter Schlichter for any losses of pay they may have suffered by reason of the respondent's discrimination in regard to their hire or tenure of employment, by payment to each of them of a sum of money equal to that which he would have earned as wages or salary during the period from the date of such discrimination to the date of the offer of reinstatement, less any amount he or she may have earned during such period;

(c) Upon request, bargain collectively in good faith with the Los Angeles Newspaper Guild as the exclusive representative of the respondent's editorial employees, in respect to rates of pay, wages, hours of employment, and other conditions of employment.

(d) Upon application, offer to those of its employees who were employed by the respondent on May 16, 1938, and who subsequently went on strike because of respondent's failure to bargain collectively, as hereinabove set forth, immediate and full reinstatement to their former positions, without prejudice to their seniority or other rights or privileges, dismissing, if necessary, all persons hired since May 17, 1938, to perform the work of such employees; making whole said employees for any losses of pay they may suffer by any refusal of their application of reinstatement as in this paragraph provided, by payment to each of them of a sum of money equal to that which each would nor-

mally have earned during the period from the date of any such refusal of application to the date of offer of reinstatement, less the amount, if any, which each earned during said period.

(e) Post immediately, in conspicuous places in its plant at Hollywood, Los Angeles, California, and maintain for a period of at least thirty (30) consecutive days, notices to its employees, stating (1) that respondent will cease and desist in the manner aforesaid; (2) that respondent will, upon request, bargain in good faith with the Los Angeles Newspaper Guild, as exclusive representative of respondent's editorial employees, with respect to rates of pay, wages, hours of employment, and other conditions of employment;

(f) File with the Regional Director for the Twenty-First Region on or before ten (10) days from the receipt of this Intermediate Report, a report in writing setting forth in detail the manner and form in which it has complied with the foregoing requirements.

It is further recommended that, unless on or before ten (10) days from receipt of the Intermediate Report the respondent notifies said Regional Director in writing that it will comply with the foregoing recommendations, the matter be referred forthwith to the National Labor Relations Board and that said Board issue an order requiring respondent to take the action aforesaid.

It is recommended that the complaint be dis-

missed as to Helen Blair Thurlby, without prejudice.

Request for the privilege of oral argument before the National Labor Relations Board upon issues raised by any exceptions to this report, or on other issues upon which oral argument is desired, must be made to the Board, Shoreham Building, Washington, D. C., within ten (10) days from the receipt of this reported.

Dated: September 1, 1938.

GEORGE E. KENNEDY

Trial Examiner

[Title of Board and Cause.]

STATEMENT OF RESPONDENT'S EXCEPTIONS TO THE INTERMEDIATE REPORT

Comes now respondent, The Citizen-News Company, a corporation, and excepts to the Intermediate Report of Trial Examiner George E. Kennedy, bearing date September 1, 1938, in the following particulars, to-wit:

(1) Excepts to Finding of Fact No. I, subparagraph 2, Respondent, upon the grounds:

(a) That said finding states that Harlan G. Palmer was publisher of the Hollywood News from 1915 to November 1, 1931, whereas in truth and in fact, there is no evidence in the record from which such a finding could be made;

(b) That said finding fails to state that the said Harlan G. Palmer was the publisher of the *Citizen* from 1915 to November 1, 1931, and that the same was a daily from October 1, 1921 until November 1, 1931, when it took over the *News* and the name was changed to *Citizen-News* (Tr. Pg. 505).

(2) Excepts to Finding of Fact No. III, subparagraph 7, Roger C. Johnson, upon the grounds:

(a) That said finding, after referring to the hospital attention given to Roger C. Johnson in March, 1937, including the offer of assistance in paying the hospital bill, states: "This close, intimate and personal relationship between Johnson and Palmer, shortly after Palmer's defeat for district attorney, became on Palmer's part less cordial," although in said sub-paragraph 7, a part of said quotation states that the election in which Palmer was defeated was held in November, 1936, and that there is no evidence in the record from which a finding could be made that any close, intimate and personal relationship between Johnson and Palmer, shortly after Palmer's defeat for district attorney, became, on Palmer's part, less cordial;

(b) That said finding fails to state that the witness Johnson at the hearing herein remembered very specifically a "happy" occasion in January, 1937 (after the election early in November of 1936) when his wages were increased to forty-five dollars, and in February of the same year he was invited to go to the National Orange Show by Harold Swisher,

the managing editor, and in the company of Harold Hubbard, the city editor, and that Mr. Swisher took delight in introducing him to some of Swisher's friends in the newspaper business in San Bernardino and elsewhere as president of the Los Angeles Newspaper Guild, (Tr. Pgs. 28 and 29), and that in July, 1937, Johnson bought Three Hundred Dollars (\$300.00) of respondent's preferred stock, (Tr. Pg. 44).

(3) Excepts to Finding of Fact No. III, subparagraph 10, Roger C. Johnson, upon the grounds:

(a) That said finding, referring to a conference with Palmer at which were present Johnson, Crow, Simonton and Elizabeth Yeaman, states that Harlan G. Palmer attempted to force the committee to disregard Guild procedure and to express themselves on rates of pay, wages, hours and other conditions of employment, and that Mr. Palmer objected to Guild procedure, whereas in truth and in fact, there is no evidence in the record on which such a finding could be made;

(b) That said finding fails to state that Harlan G. Palmer at said conference mentioned in subparagraph (a), last above, was disappointed that he could not then and there, or at some very near time, work out an agreement of some kind with the Guild (Tr. Pg. 37);

(c) That said finding fails to state that increases were asked for the heads of the Drama page, the Sports page, the copy desk and Mr. Scott and that

each of said four persons were granted increases shortly thereafter (Tr. Pgs. 241, 242 and 243);

(d) That said finding states that Johnson has not obtained other work since his discharge, whereas in truth and in fact, there is no evidence in the record from which such a finding could be made and whereas in truth and in fact, the testimony of the said Johnson is to the effect that he worked hard and got strike benefits (Tr. Pgs. 11 and 12).

(4) Excepts to Finding of Fact No. III, subparagraph 11 on the ground that said finding fails to state the other two general reporters, Simonton and Calkins, were both Guild members of prominence, that Simonton had been known by respondent to be active in Guild and C.I.O. activities, and that Calkins had been known to be a member of one or more Guild negotiating committees on other newspapers.

(5) Excepts to Finding of Fact No. III, subparagraph 12, Roger C. Johnson, upon the ground that said finding fails to state that national advertising was off about forty per cent (40%) since March, 1937 (Tr. pg. 483).

(6) Excepts to Finding of Fact No. III, subparagraph 14, Roger C. Johnson, upon the grounds:

(a) That said finding states that about January, 1938, the respondent raised its subscription rates, whereas in truth and in fact, there is no evidence in the record from which such a finding could be made;

(b) That said finding fails to state that the subscription rates of respondent were raised in April or May, 1937 (Tr. Pg. 547).

(7) Excepts to Finding of Fact No. III, subparagraph 15, Roger C. Johnson, upon the grounds:

(a) That said finding states that Palmer's estimate of \$10,000 to be the cost of the controversy then pending before the National Labor Relations Board, was also a factor considered in his concluding that retrenchment was advisable, whereas in truth and in fact, there is no evidence in the record from which such a finding could be made;

(b) That said finding fails to state that said estimated cost of \$10,000 mentioned in subparagraph (a) last above was not a factor in Palmer's mind any more than it had relation to the whole business picture. (Tr. Pgs. 536 and 537).

(8) Excepts to Finding of Fact No. III, subparagraph 19, Roger C. Johnson, upon the grounds:

(a) That said finding states that a considerable portion of the reading matter eliminated had been previously prepared by Johnson, whereas in truth and in fact, there is no evidence in the record from which such a finding could be made;

(b) That said finding fails to state that the length of stories was reduced; coverage of some meetings was eliminated; feature stories were eliminated as far as possible, if they had no clear or correct bearing on news; space allocated to comics was reduced; space allocated to drama department was reduced; sports were reduced by one column

and advertising was put on the first page of the second section of the newspaper, which heretofore had been devoted entirely to reading matter (Tr. Pgs. 486 and 487);

(c) That said finding fails to state that page four is a drama page and that, with one or two exceptions, the said Johnson never wrote for it (Tr. Pg. 114), and that page ten is a sports page and that Johnson never wrote for it and that page eleven is the comics for which Johnson did neither writing nor drawing (Tr. Pg. 118);

(d) That said finding fails to state that the copy of the Citizen-News of Monday, June 13, from which Johnson testified, was not typical of the paper when he worked for the Citizen-News Company, as it contained no feature stories and that Johnson did a lot of the feature stories (Tr. Pg. 119);

(e) That said finding fails to state that Johnson was handed an issue of the Hollywood Citizen-News of May 5, 1938, and up to page three did not find anything he would have handled, and that he believed that he would have handled a story on page four thereof (Tr. Pg. 120), and that, referring to page twelve of the newspaper, there appeared the first story he is somewhat positive, but still not sure, he would have written (Tr. Pg. 122), and that he is sure he wrote the stories: "City Deal with S. P. scored," "Dr. Townsend in City on Ballot Project" (Tr. Pg. 122), "Oakland Man Chosen G.A.R.'s Department Chief," "City Schools" referred to on

page thirteen of said newspaper, and "Beverly Hills Teachers defeated in tenure fight" referred to on page seventeen of said newspaper (Tr. Pg. 124).

(9) Excepts to Finding of Fact No. III, subparagraph 20, Roger C. Johnson, upon the grounds:

(a) That said finding fails to state that the five-day-week work schedule, being a part of Exhibit 4, did not provide what work any one should do;

(b) That said finding fails to state that the five-day-week work schedule posted by the management provided that Calkins would be on duty the day that Wesslemann, the photographer, was off duty;

(c) That said finding states that the five-day-week schedule was posted on May 15th, whereas it was posted on Saturday, May 14th (Tr. Pgs. 493 and 524);

(d) That said finding states that the respondent contended that the choice of retaining Calkins in preference to Johnson was predicative of the five-day-week schedule in that Calkins would take over the photographic assignments on the photographer's day off, whereas in truth and in fact, the evidence in the record does not support such a finding;

(e) That said finding fails to state that respondent, through Harlan G. Palmer, contended that it was advisable to have a man on duty who, in an emergency, could fill in for the photographer (Tr. Pg. 491).

(10) Excepts to Finding of Fact No. III, subparagraph 21, Mellier G. Scott, Jr., upon the ground

that said finding states that said Scott was writing a daily editorial column, and that said writing fails to state that said Scott's work was always checked by Palmer or some one else and that he was writing a daily editorial column only during Palmer's absence, and that it frequently required more of Palmer's time to handle Scott's work than it would have required for Palmer to do the work himself (Tr. Pgs. 53 and 55 and 517), and that Scott was spending each morning at the City Hall which was covered for respondent by the City News Service. (Tr. Pg. 554).

(11) Excepts to Finding of Fact No. 11, subparagraph 23, Mellier G. Scott, Jr., upon the grounds:

(a) That said finding states that after Scott, during luncheon with Palmer, told Palmer he had joined the Guild, Palmer did not ask Scott to lunch any more, whereas in truth and in fact, there is no evidence in the record from which such a finding could be made (Tr. Pg. 60);

(b) That said finding states that before Scott informed Palmer that he had joined the Guild, Scott frequently was present at conferences when business of a personal or confidential nature was being considered by Palmer, Young and Swisher, but that after Scott informed Palmer he had joined the Guild, he was not present when business of a personal or confidential nature was being considered by Palmer, Young and Swisher, whereas in truth and in fact, there is no evidence in the record

from which such a finding could be made or from which such an inference could be drawn other than a finding or inference that Scott attended such conferences less often (Tr. Pg. 60);

(c) That said finding states that in March, 1938, Scott's request for a two months' leave of absence was denied, whereas in truth and in fact, there is no evidence in the record from which such a finding could be made (Tr. Pgs. 153 and 154);

(d) That said finding fails to state that the request of Scott for a vacation of indefinite length was granted with the statement that at that time the management was not assuring any one their jobs two months hence (Tr. Pgs. 153 and 154).

(12) Excepts to Finding of Fact No. III, subparagraph 24, Mellier G. Scott, Jr., upon the grounds:

(a) That said finding states that the retrenchment program was deemed advisable after study of the five-day-week, whereas in truth and in fact, there is no evidence in the record from which such a finding could be made;

(b) That said finding fails to state that in considering whose services could best be dispensed with, the requirements of the five-day-week were considered (Tr. Pgs. 487 and 488);

(c) That said finding states that as to the five-day-week there is no testimony to evidence in what way, if any, Scott was affected, whereas in truth and in fact, there is no evidence in the record from which such a finding could be made;

(d) That said finding fails to state that Scott could be spared much more easily under a five-day-week than could others and that even Speer and Swan were considered more essential under a five-day-week than was Scott (Tr. Pg. 630).

(13) Excepts to Finding of Fact No. III, subparagraph 27, Elizabeth Yeaman, upon the grounds:

(a) That said finding fails to state that the "slop-over" was eliminated (Tr. Pg. 165);

(b) That said finding fails to state that a notice was posted on the bulletin board following a personal notification to Miss Yeaman by Mr. Swisher that space for editorial matter had to be cut down and that she must cut her copy and that the notice stated in effect that no review of anything, of any show, should run more than a page of copy (Tr. Pg. 165);

(c) That said finding states that the circumstances relating to Miss Yeaman's discharge were similar to those in the case of Johnson and Scott, whereas in truth and in fact, there is no evidence in the record from which such a finding could be made;

(d) That said finding fails to state that the choice for dismissal was between Miss Yeaman and James F. Crow, who was not only a Guild member but the chairman of the Citizen-News unit;

(e) That said finding fails to state that said Crow was the chairman of the unit and the director of its activities.

(14) Excepts to Finding of Fact No. III, subparagraph 29, upon the ground that said finding states that the actual space used by the Drama Department remained about the same after curtailment, whereas in truth and in fact, there is no evidence in the record from which such a finding could be made.

(15) Excepts to Finding of Fact No. III, subparagraph 31, Karl Von Votler Schlichter, upon the ground that said finding states that Schlichter has not obtained any other work since the date of his discharge, whereas in truth and in fact, there is no evidence in the record from which such a finding could be made.

(16) Excepts to Finding of Fact No. III, subparagraph 34, upon the ground that said finding states that there was no denial of any of the "foregoing acts or statements done or made by any of respondent's management," but said finding fails to state that the respondent offered no testimony whatever, excepting to give its reasons for the dismissals, which reasons completely deny and refute each and all of the contrary findings and conclusions made by the trial examiner.

(17) Excepts to Finding of Fact No. III, subparagraph 35, upon the grounds:

(a) That said finding states that Roger C. Johnson, Mellier G. Scott, Jr., Elizabeth Yeaman and Karl Von Votler Schlichter were discharged by respondent and have been refused employment by respondent, for the reason that they joined and as-

sisted a labor organization known as the Los Angeles Newspaper Guild and engaged in concerted activities for the purpose of collective bargaining and other mutual aid and protection, whereas in truth and in fact, the said charge is grossly false and untrue and there is no evidence in the record from which such a finding could be made;

(b) That said finding fails to state that all editorial room employees who were eligible for membership were members of the Guild and that to select three for dismissal for retrenchment reasons it was necessary to select Guild members;

(c) That said finding fails to state that respondent had no means of measuring the relative activities of its employees in the Guild;

(d) That said finding fails to state that active members in the Guild, such as Crow, the chairman of the Guild unit, Calkins, an active member, Redelings, who was doing the work of the secretary, and Simonton, who was secretary of the C.I.O. council (Tr. Pg. 140) were not discharged;

(e) That said finding fails to state that Miss Yeaman went to Judge Palmer about the naming of James F. Crow, chairman of the unit, as Drama Editor;

(f) That said finding fails to state that the business of the respondent was losing money; and that in reducing the staff by one reporter it was necessary to choose for dismissal among three active members, to wit, Simonton, secretary of the C.I.O. council (Tr. Pg. 140); Calkins, at one time treas-

urer, and Johnson, and that in choosing for dismissal between Miss Yeaman and Crow, the respondent had to choose between the chairman of the unit and Miss Yeaman; in choosing Scott for dismissal, Mr. Palmer chose personally to shoulder Scott's work; in choosing Helen Blair Thurlby for dismissal, he chose between her, a part-time employee, and a full-time employee, Killoran, to whom she was an assistant, and in choosing Schlichter for dismissal, he chose one doing work that the company had gotten along without when business had been better than it was at the time of discharge, and that Killoran was a member of the Guild before Blair and was active therein.

(18) Excepts to Finding of Fact No. III, subparagraph 36, upon the grounds:

(a) That said finding states that by said discharge and refusal to employ said Roger C. Johnson, Mellier G. Scott, Jr., Elizabeth Yeaman and Karl Von Votler Schlichter, respondent has discriminated, and is discriminating, regarding the hiring and tenure of employment guaranteed under Section 7 of the National Labor Act, whereas in truth and in fact, the charge is false and untrue and there is no evidence in the record from which such a finding could be made;

(b) That said finding fails to state that there was, or is, no discrimination and that all the eligible editorial room employees were Guild members and that after the discharges all the eligible editorial employees were still Guild members.

(19) Excepts to Finding of Fact No. III, subparagraph 37, upon the grounds:

(a) That said finding states that by said discharge and refusal to employ Roger C. Johnson, Mellier G. Scott, Jr., Elizabeth Yeaman and Karl Von Votler Schlichter, respondent has interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act, whereas in truth and in fact, the statement is false and untrue, and there is no evidence in the record from which such a finding could be made;

(b) Repeats the allegations of Paragraph 18, subparagraph (b), as if the same were set forth herein in full;

(c) That said finding fails to state that there was no interference and/or no restraint and/or no coercion of its employees in the exercise of the right guaranteed in Section 7 of the National Labor Relations Act, and that all editorial room and many other employees joined the Guild.

(20) Excepts to Finding of Fact No. III, subparagraph 38, upon the grounds:

(a) That said finding states that by said discharge and refusal to employ Roger C. Johnson, Mellier G. Scott, Jr., Elizabeth Yeaman and Karl Von Votler Schlichter, respondent has discouraged membership in the labor organization known as Los Angeles Newspaper Guild, whereas in truth and in fact, there is no evidence in the record from which such a finding could be made;

(b) Repeats the allegations of Paragraph 18, sub-paragraph (b), and the allegations of Paragraph 19, sub-paragraph (c), and makes the same a part of this sub-paragraph (b) as if the same were set forth herein in full.

(21) Excepts to Finding of Fact No. III, sub-paragraph 52, upon the ground that said finding fails to state that Mr. Palmer testified that he did not make any comment in any way, shape or manner to Mr. Turner or any one else in the organization regarding Johnson's activities being of detriment to him, and further that he never made any comment to any one in the organization with reference to Mellier G. Scott, Jr., Elizabeth Yeaman, Helen Thurlby or Karl Von Votler Schlichter (Tr. Pgs. 498 and 499).

(22) Excepts to Finding of Fact No. III, sub-paragraph 53, upon the grounds:

(a) That said finding states that Brandon stated that the discharge of Helen Thurlby "was due to Guild stuff", whereas in truth and in fact, there is no evidence in the record from which such a finding could be made;

(b) That said finding fails to state that Brandon said "With all this concern and severance pay, and 4-hour week and Guild stuff . . . we had to cut down." (Tr. Pgs. 406 and 407).

(23) Excepts to Finding of Fact No. III, sub-paragraph 62, upon the ground that said finding fails to state that respondent offered no testimony in rebuttal, excepting the testimony of Palmer as

to the reasons for the discharges, which testimony constitutes a complete denial of the mere assumptions to the contrary.

(24) Excepts to Finding of Fact No. III, subparagraph 63, upon the ground that there is no evidence in the record from which such a finding could be made or from which such an inference could be drawn.

(25) Excepts to Finding of Fact No. III, subparagraph 64, upon the ground that there is no evidence in the record from which such a finding could be made or from which such an inference could be drawn.

(26) Excepts to Finding of Fact No. III, subparagraph 70, meeting of December 22, 1937, upon the grounds:

(a) That said finding states that Palmer did not intend to negotiate an agreement, whereas, in truth and in fact, there is no evidence in the record from which such a finding could be made;

(b) That said finding fails to state that Palmer was devoting much time and effort to the negotiation of an agreement;

(c) That said finding fails to state that at the time of the hearing herein no California newspaper had agreed to a Guild shop (Tr. Pg. 354);

(d) That said finding states that Palmer referred to the proposed agreement as a dishonest document, whereas in truth and in fact, it was the Guild negotiators who testified that Palmer merely

asked the question "How can I give an honest answer to a dishonest proposal?"

(27) Excepts to Finding of Fact No. III, subparagraph 71, upon the grounds:

(a) That said finding fails to state that in its last proposal the respondent included a clause against reduction in pay;

(b) That said finding fails to state that Palmer stated that said clause against dismissals as a result of the negotiations would be subject to misunderstanding and would give rise to trouble, and that at said time they were in a period when business was off, expenses were up, and that if it were not for the negotiations at that time, they would be making reductions; that the clause pertaining to dismissals as a result of the negotiations was omitted from respondent's counterproposal and was not raised again in the Guild's counterproposals and that that seemed to settle the discussion, (Tr. Pg. 484);

(c) That said finding fails to state that Palmer stated he had before him three possible courses of action: (1) being the course taken by the San Francisco papers, each of which he stated laid off from 10 to 30 employees during the course of negotiations; (2) the procedure of other papers being that of waiting until their contracts were completed and then making their layoff; and (3) being the one that he stated they probably unfortunately decided upon of completing the negotiations and then

before signing, notified the employees of impending dismissals, (Tr. Pg. 514);

(d) That said finding fails to state that if there had been no Guild negotiations, Judge Palmer would have still felt it necessary to retrench and that if the Guild negotiations had not then been on, retrenchment would have been made by the first of March of the same year, and that when Guild negotiations were on, several people were kept in employment who would otherwise not have had their jobs (Tr. Pg. 538):

(28) Excepts to Finding of Fact No. III, subparagraph 84, Meeting of May 16, 1938, upon the grounds:

(a) That said finding states the real objection of the respondent to the proposal, as appeared in an editorial signed by Palmer, and published on May 17, 1938, was that it invaded the management's fundamental right to engage whatever employees it chose for editorial room work, whereas in truth and in fact, there is no evidence in the record from which such a finding could be made;

(b) That said finding fails to state that editorials appeared in respondent's newspaper, the Citizen-News, quotations from which are as follows:

Editorial of May 17, 1938 (Board's Exhibit No. 12): "The management said that it was for the purpose of retrenchment to reduce expenses because of greatly reduced revenue. . . . Briefly, the Citizen-News position was stated that the man-

agement could not yield upon its right to have whatever workers it selected to write for the paper."

Editorial of May 18, 1938 (Board's Exhibit No. 13): "Reason given by the Citizen-News management for discharge of the three employees whose loyalty to the Newspaper Guild was outstanding was 'reorganization' to meet the recession."

(c) That said finding fails to state that upon conclusion of the meeting of May 13, (Friday) it was orally agreed that while waiting formal approval by the Guild Unit and the international office, the agreement would be put into effect on the following Monday, and that Palmer considered it essential, since the five-day-week was to be started Monday, to announce the staff reductions at the Friday meeting as the five-day-week schedules to be posted on the following Saturday morning would show the eliminations.

(29) Excepts to Finding of Fact No. III, subparagraph 86, Strike following the refusal to bargain, upon the ground that said finding states that the negotiations were not conducted in good faith and were unduly and unreasonably hindered, delayed and prolonged by respondent for the purpose of discouraging membership in the Guild, whereas int truth and in fact, the statement is false and untrue and there is no evidence in the record from which such a finding could be made.

(30) Excepts to Finding of Fact No. III, subparagraph 87, Strike following the refusal to bar-

gain, upon the ground that said finding states that the negotiations were not conducted in good faith and were unduly and unreasonably hindered, delayed and prolonged by respondent for the purpose of disrupting and terminating the negotiations at some time prior to an agreement becoming effective, whereas in truth and in fact, the statement is false and untrue and there is no evidence in the record from which such a finding could be made;

(31) Excepts to Finding of Fact No. III, subparagraph 88, Strike following the refusal to bargain, upon the ground that said finding states that the respondent on or about December 1, 1937, refused, and at all times since that date has refused, and at the time of the hearing still refuses, to bargain collectively in good faith with the Guild as exclusive representative of all employees of the editorial department of respondent's newspaper, Hollywood Citizen-News, whereas in truth and in fact, there is no evidence in the record from which such a finding could be made.

(32) Excepts to Finding of Fact No. III, subparagraph 89, Strike following the refusal to bargain, upon the ground that said finding states that the strike was caused by respondent's refusal to bargain in good faith with the Los Angeles Newspaper Guild, whereas in truth and in fact, there is no evidence in the record from which such a finding could be made.

(33) Excepts to Finding of Fact No. III, subparagraph 90, Strike following the refusal to bar-

gain, upon the ground that said finding states that the discharge of Roger C. Johnson, Mellier G. Scott, Jr. and Elizabeth Yeaman, on May 14, 1938, by respondent was for the purpose of disrupting and terminating negotiations prior to an agreement becoming effective, whereas in truth and in fact, the statement is false and untrue and there is no evidence in the record from which such a finding could be made.

(34) Excepts to Finding of Fact No. IV, subparagraph 96, upon the ground that said finding states that the activities of respondent, as set forth in Section III of the Findings, occurring in connection with the operation of respondent described in Section IV of the Findings, have a close, intimate and substantial relation to trade, traffic, and commerce among the several states, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce, whereas in truth and in fact, there is no evidence in the record from which such a finding could be made.

(35) Excepts to the Findings of Fact as a whole upon the ground that said examiner failed to find that three proposals were made by respondent in writing; that on May 13, 1938, an agreement was reached on the last clause at issue and that the Guild itself in calling its strike, after the successful termination of the negotiations and the agreement reached as to all matters, including the publisher's right to peremptorily discharge, broke its

agreement and called an unauthorized and illegal strike in violation of its agreement.

(36) Excepts to the Findings of Fact as a whole upon the grounds:

(a) That said findings show that the trial examiner has entirely disregarded all evidence offered on behalf of respondent;

(b) That in each instance where the mere assumptions offered as evidence by the Guild conflicted with the positive evidence offered by respondent, the trial examiner has, without exception, accepted as fact the assumptions offered by the Guild and rejected as false the positive evidence offered by respondent regardless of its weight, quality or credibility, and in each instance has made deductions and drawn such inferences as would tend to support the charges made against respondent by the Guild and has ignored the positive and uncontradicted testimony which proved the contention of the respondent that it was actuated by motives of retrenchment in making the several discharges and that it had abolished the positions of the several employees referred to in said findings in order to effect a reduction in the operating expenses of respondent; and that it had selected those who were dismissed after much deliberation over the question of whom the owners could best spare;

(c) That in all other respects, he has exhibited an attitude of prejudice, bias and partisanship and not an impartial judicial attitude.

(37) Excepts to the findings of fact as a whole upon the ground that said finding fails to find that the respondent, through its representatives, complied with every one of the many requests of the negotiating committee for a conference or meeting to settle the matters at issue and was desirous of promptly adjusting all differences; that numerous proposals and counter-proposals were made in the negotiations; that at all times the respondent stoutly maintained its right within the law to employ or dismiss whomsoever it chose; that said right of employing or dismissing was expressly conceded by the negotiators for the Guild; that respondent had consistently maintained at the various meetings that it would be necessary for it to embark on a campaign of retrenchment involving the elimination of certain classes of news and the dismissal of employees; that at the last meeting with the said negotiators the last point of difference, which pertained to liquidating overtime, was orally agreed upon and it was orally agreed that a written agreement embodying the said oral agreement was to be drawn and submitted by the Guild to its international committee and to the unit; that thereafter at said last meeting, respondent's representatives, pursuant to the right to dismiss reserved in the oral agreement and written proposals and, in order to be fair in that the Unit should have knowledge of the respondent's then intentions as to dismissals, prior to signing of the written agreement announced there would be three dismissals in the editorial

staff as a part of the program of retrenchment due to the current losses in the respondent's business. (Tr. pp. 281-296)

That Mr. Sargent, the respondent's representative, stated that "There was something that he felt in all fairness that he wanted them to know before the contract was signed." (quoting from lls. 2-4, pg. 389, Tr.), and that three people would have to be discharged from the editorial room; that the editorial department was going to be reorganized in order to effect economy and that these three positions were for the sake of effecting economy; that Mr. Garrigues representing the Guild said "that if the discharges were for the sake of economy, the Guild shouldn't do anything about that." (quoting from lls. 4 and 5, Pg. 390 Tr.)

(38) Excepts to the findings as a whole upon the ground that said findings fail to state that Mr. Palmer, on behalf of respondent, in studying and acting on the matter of elimination of members of the editorial staff decided:

(1) That Miss Yeaman could be spared with less injury to the business than Mr. Crow, the chairman of the unit, as he considered the latter better for writing heads, laying out the drama page, and the more able in connection with the review of previews; that with reference to Miss Yeaman's work, respondent could run such motion picture production news as came in by mail, and that they would rely upon two other syndicated columns in the paper on motion pictures;

(2) That with reference to Roger C. Johnson, Floyd Simonton and Jake Calkins, classified by the respondent as general reporters, each receiving the same salary, the respondent could get along with the amount of reading matter that two could produce which would eliminate feature type of articles and the interviews and things in the judgment of Mr. Palmer not essential in presenting the daily news; that it was determined that Floyd Simonton (then secretary of the C.I.O. Council) was the best reporter of the three; that Mr. Palmer believed his work better and thought that he had a better understanding and was more valuable from the standpoint of major news reporting; that it was considered essential to have a photographer to fill in for the regular photographer in the event of emergency on his day off during the existence of the five-day-week schedule and that Calkins (at one time treasurer of the Guild) was acceptable as a photographer and that in an emergency could do the photographic work and for the further reason that Calkins was a capable desk man, and for such reasons the respondent decided, from among said three men, to keep Calkins and Simonton and let Roger Johnson go, as he could be spared with the least injury to respondent;

(3) That Mr. Mel Scott would be eliminated as Mr. Palmer could spare him from his immediate staff and that Mr. Scott's work was such that a considerable portion of it had to be corrected and rewritten by Mr. Palmer, and that Mr. Palmer

chose personally to shoulder Scott's work;

(4) That Mr. Schlichter, whose work was primarily concerned with promotion of national advertising, which was off 40%, could be eliminated and that in previous years respondent had operated without Schlichter's particular work; and

(5) That as to Miss Thurlby, the choice made between her and Patricia Killoran, Miss Thurlby was a part-time assistant to Miss Killoran. They worked in the display department writing publicity stories concerning mercantile stores, or the wares on sale thereat. Miss Killoran had been on the paper the longer time. She was also a Guild member, having joined before Thurlby joined.

(39) Excepts to the findings as a whole on the ground that they find that there was discrimination in the dismissals because of Union affiliations or activities, whereas there is no evidence in the record upon which such a finding can be based as the evidence of the complainant proves nothing other than that the discharged employees were Guild members, while, on the contrary, the uncontradicted evidence does affirmatively prove that there was no discrimination and that the discharged employees were dismissed in the interest of economy in a businesslike effort toward retrenchment, rendered advisable by economic conditions, and after careful consideration of the respective merit and qualifications of various employees, all Guild members.

(40) Excepts to the findings of fact as a whole upon the grounds that they fail to find that the

respondent has its business exclusively in Hollywood, California; that the circulation of its paper does not extend generally over the City of Los Angeles, but is confined largely to the neighborhood of Hollywood, Beverly Hills, Westwood, San Fernando Valley and the Wilshire district, all in Los Angeles County, California, and immediately adjacent to the place of publication; that respondent has a daily circulation of approximately 26,000, and that there are only about 125 copies mailed daily to points without the State of California and sent generally as a matter of accommodation; that respondent performs no activities outside the State of California; that its printing work is all done in California; that newsprint purchased outside of California represents 10.2% of the total expenses of the daily newspaper; (Tr. Case No. XXI-C-482 and Case No. XXI-R-361 at Page 60); that respondent is a California corporation, with a single place of business, operating exclusively within a very restricted neighborhood within the City of Los Angeles and its environs; that no one connected with the paper is engaged in any work outside the State of California or in the reception or transmission of any news or supplies from or to a source outside the said State; that said newspaper of respondent is wholly prepared, edited, printed and published within the State of California, where the publisher's only office and place of business is located; that respondent's business is not interstate commerce, nor does it "affect com-

merce" within the meaning of the National Labor Relations Act; (see *Western Live Stock v. Bureau of Revenue*, 82 Law Ed. 548 (1938)).

(41) Excepts to the findings of fact as a whole upon the ground that said findings fail to take into consideration the following facts which are according to uncontradicted testimony and are based upon the books and records of respondent:

From January 31, 1938 to May, 1938, the advertising lineage of the Hollywood Advertiser was off 13.23% compared with the same period for 1937.

For the same period of 1938, the Shopping News advertising lineage was 17.37% below the corresponding months of 1937.

The Citizen-News advertising lineage in 1938 was below that for the corresponding months in 1937, as follows:

March, 1938, 15.5% ;

April, 1938, 12.5% (Tr. pg. 593)

The profits and losses on the daily Citizen-News also show as follows:

	1937		1938
January	\$2450.00 profit	January	\$1251.00 loss
February	\$3114.00 profit	February	\$ 849.99 profit
March	\$6974.00 profit	March	\$1437.00 loss
April	\$8954.00 profit	April	\$ 941.00 profit
May	\$5577.00 profit	May	\$ 917.00 loss

For the five months period preceding and including May of 1938, the total figures on profit and loss show a loss of \$1814.00.

For the first five months of 1937, the profit and loss figures showed a profit of \$27,071.00.

In December, 1936, there was a profit of \$4465.00. In December, 1937, there was a loss of \$3645.00. (Tr. Pp. 594 and 595)

(42) Excepts to said findings of fact as a whole upon the ground that said findings fail to state that the retrenchment program was entered into upon considering the monthly reports showing the above figures. (Tr. Pp. 595 and 597)

(43) Excepts to said findings of fact as a whole on the ground that said findings fail to state that national advertising was off 40% at the time of the dismissals.

(44) Excepts to said findings of fact as a whole on the ground that said findings wholly fail to find that from the latter part of 1937 to the middle of 1938, there was a serious business depression, or recession, and that retrenchment was taking place in nearly all lines of business, many men were being let out of work, bankruptcies were increasing, gloom prevailed in the business world and that, up to the time of the strike involved herein, there was no relief in sight.

Excepts to the Conclusions and Recommendations as Follows:

(45) Excepts to Conclusions and Recommendations No. 1 upon the ground that it states that respondent, by discharging and refusing to employ Roger C. Johnson, Mellier G. Scott, Jr., Elizabeth

Yeaman and Karl Von Votler Schlichter, and thus discouraging membership in a labor organization known as the Los Angeles Newspaper Guild, by refusing to bargain collectively in good faith with said Los Angeles Newspaper Guild and by interfering with, restraining or coercing its employees in the exercise of rights guaranteed in Section 7 of the National Labor Relations Act, as set forth in the Findings of Fact herein, has engaged in, and is engaging in, an unfair labor practice affecting commerce within the meaning of Section 8 (1) and Section 2 (6) and (7) of "the National Labor Relations Act", whereas in truth and in fact the conclusion is based on improper findings of fact, reached by bias and prejudice and there is no evidence in the record upon which such a conclusion can be based.

(46) Excepts to Conclusions and Recommendations No. 2 upon the grounds that it states that "respondent, by discharging and refusing to employ Roger C. Johnson, Mellier G. Scott, Jr., Elizabeth Yeaman and Karl Von Votler Schlichter, as set forth in the said Findings, has engaged in and is engaging in an unfair labor practice affecting commerce within the meaning of Section 8 (3) and Section 2 (6) and (7) of the National Labor Relations Act", whereas in truth and in fact, the conclusion is based on improper findings of fact reached by bias and prejudice, and there is no evidence in the record upon which such conclusion can be based.

(47) Excepts to Conclusions and Recommendations No. 3 upon the grounds that it states that the “respondent by refusing to bargain collectively in good faith with the Los Angeles Newspaper Guild”, as set forth in said finding, “has engaged in and is engaging in an unfair labor practice affecting commerce within the meaning of Section 8 (5) and Section 2 (6) and (7) of the National Labor Relations Act”, whereas in truth and in fact, the conclusion is based on improper findings of fact reached by bias and prejudice, and there is no evidence in the record upon which such conclusion can be based.

(48) Excepts to Recommendation No. 1, upon the grounds:

(a) That it recommends that “respondent cease and desist from interfering with, restraining or coercing its employees in the exercise of their right to self-organization, to form, join, or assist the Los Angeles Newspaper Guild, or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection”, whereas in truth and in fact, the evidence does not show that respondent has in any way interfered with, restrained or coerced its employees in the rights guaranteed by the National Labor Relations Act;

(b) That said Recommendation No. 1 fails to

point out any specific act which respondent is alleged to be doing that it should cease to do.

(49) Excepts to Recommendation No. 2, upon the ground that it recommends that respondent cease and desist from

(a) Discouraging membership in the Los Angeles Newspaper Guild or any other labor organization by discrimination in regard to hire or tenure of employment or condition of employment; and

(b) Refusing to bargain collectively in good faith with the Los Angeles Newspaper Guild, the representative of the editorial employees, as set forth in said findings,

For the reason that the evidence does not show that respondent has in any manner discouraged membership in the Los Angeles Newspaper Guild, or any other labor organization, by discrimination in regard to hire, or tenure or condition of employment, or otherwise, or refused to bargain collectively in good faith with the Los Angeles Newspaper Guild.

(50) Excepts to Recommendation No. 3(a) upon the grounds:

(a) That it recommends that respondent be compelled to offer to Roger C. Johnson, Mellier G. Scott, Jr., Elizabeth Yeaman and Karl Von Votler Schlichter immediate and full reinstatement to their former positions without prejudice to their seniority or other rights or privileges previously enjoyed, whereas in truth and in fact, the evidence does not show that the employment of any one of

said persons has any connection with or effect upon commerce, but on the other hand, the evidence does affirmatively show that Roger C. Johnson, Mellier G. Scott, Jr., Elizabeth Yeaman and Karl Von Votler Schlichter, insofar as their employment by respondent is concerned, were each engaged entirely in activities constituting interstate commerce;

(b) That by said recommendation respondent is compelled to offer to employ Roger C. Johnson, as a political editor, Mellier G. Scott, Jr., as an editorial writer and Elizabeth Yeaman as a columnist and that such compulsion of respondent is in violation of the freedom of the press.

(51) Excepts to Recommendation No. 3(b) upon the ground that it recommends that respondent "make whole Roger C. Johnson, Mellier G. Scott, Jr. and Elizabeth Yeaman for any loss of any pay they may have suffered by reason of the respondent's alleged discrimination in regard to their hire or tenure of employment, by payment to each of them of a sum of money equal to that which he or she would normally have earned in wages during the period from the date of the termination of their employment to the date of offer of reinstatement, less earnings from other employment during such period", whereas in truth and in fact, the Board is without jurisdiction to make such order or to make any order herein because the evidence does not show that the employment of any one of said persons has any connection with or effect upon commerce, but on the other hand, the evidence does

affirmatively show that said employees, insofar as their employment by respondent is concerned, are engaged entirely in activities constituting intrastate commerce.

(52) Excepts to Recommendation No. 3(c) upon the ground that it recommends that respondent bargain collectively in good faith with the Los Angeles Newspaper Guild, as exclusive representative of respondent's editorial employees, in regard to rates of pay, hours of employment and other conditions of employment, whereas in truth and in fact, the evidence does not show that the employment of any one of said persons has any effect upon or connection with commerce, but on the other hand, the evidence does affirmatively show that the respondent's editorial employees, insofar as their employment by respondent is concerned, are entirely engaged in activities constituting intrastate commerce.

(53) Excepts to Recommendation No. 3(d) upon the grounds:

(a) That it recommends that respondent, upon application, offer to those of its employees who were employed by respondent on May 16, 1938 and who subsequently went on strike because of respondent's alleged failure to bargain collectively as set forth in said finding, immediate and full reinstatement to their former positions, without prejudice to their seniority or other rights or privileges, and dismiss, if necessary, all persons hired since May 17, 1938 to perform the work of such employees; make whole

to said employees any loss in pay they may suffer by any refusal of their application of reinstatement; by payment to each of them of a sum of money which each would normally have earned during the period of any such refusal of application to the date of offer of reinstatement, less the amount, if any, which each earned during said period, whereas in truth and in fact, the evidence does not show that the employment of any one of said persons has any effect upon commerce, but on the other hand, the evidence does affirmatively show that said employees of respondent, insofar as their employment by respondent is concerned, are engaged in activities constituting intrastate commerce;

(b) That by said recommendation respondent is compelled to offer to employ Roger C. Johnson, as a political editor, Mellier G. Scott, Jr. as an editorial writer and Elizabeth Yeaman as a columnist, and others in capacities for which they may now be wholly unfit to serve the policies of the paper, and that such compulsion of respondent is in violation of the freedom of the press.

(54) Excepts to Recommendation No. 3(e) upon the grounds:

(a) That it recommends that respondent post immediately and maintain notices to its employees stating that respondent will cease and desist from the matters prohibited and enjoined by the said recommendations and stating that respondent shall, upon request, bargain in good faith with the Los Angeles Newspaper Guild, as the exclusive repre-

sentative of respondent's editorial employees, with respect to rates of pay, wages, hours of employment and other conditions of employment, whereas in truth and in fact, the said board has no jurisdiction, warrant or authority to order said posting and maintenance of said notices;

(b) That by said recommendation respondent is compelled to offer to employ Roger C. Johnson as a political editor, Mellier G. Scott, Jr. as an editorial writer and Elizabeth Yeaman as a columnist, and others in capacities for which they may now be wholly unfit to serve the policies of the paper, and that such compulsion of respondent is in violation of the freedom of the press.

(55) Excepts to Recommendation No. 3(f) upon the ground that said Board has no jurisdiction, warrant or authority to compel the respondent to file a report in writing setting forth the manner of its compliance with said recommendations.

(56) Excepts to the Recommendations as a whole upon the ground that said Recommendations, and each thereof, are wholly based upon findings which are not supported by the evidence and which are contrary to the evidence and also based on false, untrue and erroneous conclusions drawn from such findings.

Dated: October 19, 1938.

WILLIAMSON, HOGE, SARGENT
& JUDSON

By WILLIS SARGENT

By J. M. McCROSKEY

United States of America
Before the National Labor Relations Board

Case No. C-947

In the Matter of

THE CITIZEN-NEWS COMPANY,
a corporation

and

LOS ANGELES NEWSPAPER GUILD

Mr. David Persinger, for the Board.

Mr. Willis Sargent and Mr. Frank B. Belcher, of
Los Angeles, Calif., for the respondent.

Mr. Carey McWilliams, of Los Angeles, Calif., and
Mr. A. J. Isserman, of Newark, N. J., for the
Guild.

Mr. William T. Little, of counsel to the Board.

DECISION AND ORDER

Statement of the Case

Upon charges and amended charges duly filed by Los Angeles Newspaper Guild, herein called the Guild, the National Labor Relations Board, herein called the Board, by the Regional Director for the Twenty-first Region (Los Angeles, California), issued its complaint dated June 27, 1938, against The Citizen-News Company,¹ a corporation, Hollywood,

(1) In the complaint the respondent was denominated as Hollywood Citizen-News Company, a corporation. At the hearing the designation was specifically corrected to that appearing in the caption.

California, herein called the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices affecting commerce, within the meaning of Section 8 (1), (3), and (5) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. A copy of the complaint and notice of hearing thereon was duly served upon the respondent and the Guild.

The complaint alleged, in substance, that the respondent (1) discriminatorily discharged and refused to reinstate Roger C. Johnson, Mellier G. Scott, Jr., Elizabeth Yeaman, Karl Schlichter, and Helen Blair Thurlby,² and did thereby discourage membership in a labor organization; (2) refused to bargain collectively in good faith with the Guild, the collective bargaining agency designated by the majority of the employees in an appropriate unit; and (3) by the foregoing acts interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act. The respondent, in its answer dated July 1, 1938, denied that it had engaged in or was engaging in the alleged unfair labor practices.

Pursuant to notice duly served on the parties, a hearing was held at Los Angeles, California, on July 5, 6, 7, 8, 11, and 12, 1938, before George E. Kennedy, the Trial Examiner duly designated by the Board. The Board, the respondent, and the Guild

(2) Incorrectly designated as Thurlly in the complaint.

were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. On motion of counsel for the Board, the complaint was dismissed without prejudice as to Helen Blair Thurlby. During the course of the hearing the Trial Examiner made several rulings on other motions and on objections to the admission of evidence. At the close of the hearing, counsel for the respondent made several motions to dismiss the complaint. The Trial Examiner reserved ruling on the several motions and denied them in his Intermediate Report. The Board has reviewed the Trial Examiner's rulings and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

On September 1, 1938, the Trial Examiner issued his Intermediate Report, copies of which were duly served upon the parties, in which he found that the respondent had engaged in and was engaging in unfair labor practices, within the meaning of Section 8 (1), (3), and (5) and Section 2 (6) and (7) of the Act, and recommended that the respondent cease and desist from such unfair labor practices, that it reinstate with back pay the four employees found to have been discriminatorily discharged, that it bargain in good faith with the Guild upon request, that it offer those employees who went on strike because of the respondent's failure to bargain collectively immediate and full reinstatement upon application, and that it take other affirmative action remedial of the unfair labor practices.

On October 14 and 21, 1938, the Guild and the respondent filed their respective exceptions to the Intermediate Report. Pursuant to notice, a hearing for the purpose of oral argument was had before the Board at Washington, D. C. on October 5, 1939. The Guild appeared and was represented by counsel. At oral argument, upon the request of its counsel, the Guild was granted a week within which to file a motion to reopen the record for the purpose of receiving further evidence. Thereafter the Guild requested and received an additional two weeks within which to file such motion. On November 13, 1939, counsel for the Guild notified the Board that it no longer desired to file such motion. The Board has considered the exceptions to the Intermediate Report and, in so far as they are inconsistent with the findings, conclusions, and order set forth below, finds them to be without merit.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. The business of the respondent

The respondent is a California corporation, having its principal office and place of business in Hollywood, Los Angeles, California. The respondent owns, prints, and publishes the Hollywood Citizen-News, herein called the Citizen-News, and the Hollywood Advertiser. In addition, the respondent engages in job printing for commercial establishments and other newspapers.

The average daily circulation of the Citizen-News is in excess of 26,000 copies, of which the out-of-State circulation amounts to 125 copies, or about one-half of 1 per cent. The respondent is a member of the Associated Press and subscribes to the services of the United Press, both of which maintain teletype machines at the respondent's plant. The Associated Press has the privilege of using items of news and intelligence collected and edited by the respondent's employees. The items of news collected outside the State of California and transmitted to the respondent comprise approximately 21 per cent of the reading matter of the Citizen-News. The respondent subscribes to numerous syndicated services which supply materials originating outside the State of California amounting to about 17 per cent of the reading matter of the Citizen-News. The revenue derived from advertising originating outside the State amounts to approximately 10 per cent of the total advertising revenue of the Citizen-News, and more than 5 per cent of the respondent's total revenue.

The respondent uses about 350 tons of newsprint per month, all of which is shipped to the respondent from British Columbia, Canada. The purchase of newsprint constitutes 20 per cent of the total expenses of all the respondent's publications and 10 per cent of the cost of publishing the Citizen-News.

II. The organization involved

Los Angeles Newspaper Guild, otherwise known as Chapter No. 69 of the American Newspaper

Guild, is a labor organization affiliated with the Committee for Industrial Organization,³ herein called the C. I. O. It admits to membership commercial, business, and editorial department employees of newspapers in Los Angeles and adjacent counties. The Citizen-News unit of the Guild is a subdivision thereof admitting to membership employees of the respondent employed in the above-named departments.

III. The unfair labor practices

A. Interference, restraint, and coercion

The record does not disclose the existence of any labor organization or concerted activity among the respondent's employees prior to July 1936. At that time a group of editorial employees petitioned Harlan G. Palmer, the respondent's president, for a pay increase. As a result individual conferences were arranged between Palmer and the individual employees, but the subject of wage increases was not discussed. Shortly thereafter, an item signed by Palmer appeared in the "Office Gossip," a mimeographed paper published by the respondent and distributed to the employees with their pay checks, requesting that employees submit grievances concerning salary and working conditions, and stating that if the grievances were disallowed and the employees were still dissatisfied, they should seek employment elsewhere. When Roger Johnson, an editorial employee, expressed his dissatisfaction with

(3 Now the Congress of Industrial Organizations.

the results of the conferences to Harwood Young, the business manager of the Citizen-News, the latter stated that Palmer was adverse to acting under suggestions from "pressure groups."

In September and October 1936 the Los Angeles Chapter of The American Newspaper Guild and the Citizen-News Chapter thereof were organized. At various times thereafter certain supervisory employees made disparaging remarks about the Guild. Thus Harold Swisher, Harwood Young, and Harold Wynn, who are respectively managing editor, business manager, and assistant business manager of the Citizen-News, commented unfavorably on the Guild's emphasis on "economics" rather than "ethics" in conversations with Roger Johnson and James Crow, editorial employees of the Citizen-News. Swisher, and at a later date, Harry Brandon, display advertising manager of the Citizen-News, criticized Guild settlements of strikes, the former saying that he did not see what had been achieved by the strikes and the latter, referring to a particular strike, stated that he would be ashamed to belong to an organization that was party to such a settlement.

In June 1937 the American Newspaper Guild held a convention at which it voted, subject to a referendum, to join the C. I. O. and admit non-editorial employees to membership. About this time Swisher in speaking to Johnson questioned the advisability of the Guild's affiliating with the C. I. O. Some time later, in the fall of 1937, in connection with stories concerning strikes, he remarked to

James Lindsey, Herman Reuters, and John Watts, editorial employees and Guild members who worked at the copy desk, that he believed in unions, but thought that the C. I. O. was carrying things too far. He inquired, "You fellows belong to the C. I. O., don't you, the Guild?"

On one occasion after the Guild convention, Young asked Johnson whether the Guild intended to organize the business department. At another time, the date of which does not appear in the record, he expressed the belief that the Guild should be limited to the editorial department. In like vein, Harry Brandon told Johnson that he disapproved of unions for professional people. On one occasion the manager of the classified advertising department told Karl Schlichter that Palmer would never sign a union contract and that the editorial employees were making a mistake seeking higher wages.

However, the burden of discouraging union activity among the employees of the business department seems to have been taken up by Brandon, the display advertising manager. In the course of his duties as display advertising manager, he held meetings of the advertising salesmen. He devoted several of these meetings exclusively to the topic of unions, speaking critically on the subject of unions in general and the Guild in particular. Specifically he complained that the Guild had changed the newspapermen's attitude, that they had lost interest in their work and only wanted to "put in eight hours, and watch the clock." On another occasion, he com-

plained that the white-collar worker was caught between the business and laboring class and prophesied that some day the white-collar workers "are going to get ourselves some guns and go out and shoot those union bastards."

In October 1937 Brandon applied for membership in the Guild and urged Johnson to secure his admission. The Guild refused to accept him as a member, fearing that his move was an attempt to dominate the Guild or at least the advertising salesmen in it. Shortly thereafter, at a meeting of the salesmen, Brandon remarked, "you fellows have certainly tried to screw me up," and at another meeting a few days later, he said: "you are thinking too much of unions and not doing your work." Late in October 1937, at another meeting at which he again discussed unions, Brandon again complained that the men were not working hard enough and issued an order that they would have to work on Saturdays, despite the fact that there was little to be done in the department on that day. For a time thereafter the salesmen were required to work on Saturdays. When Johnson complained to Business Manager Young that the men felt that they were being discriminated against because of their Guild activity, the latter remarked that Brandon had a bad temper and had acted hastily and promised to speak to Brandon to see what could be done about the matter.

Thus for a period of over a year, the respondent conducted a campaign of criticism and disparagement of the Guild. The purpose of the campaign is

made all the more apparent by virtue of its relative intensity in the business department shortly before and after June 1937 when the Guild convention voted to extend its jurisdiction to employees of that department.

In late June 1937, about the time of the Guild convention, at the request of the respondent, committees representing the various departments were formed by the employees and met with the respondent to discuss wages, working conditions, and grievances. At these meetings, the respondent proposed contracts to the various committees. The business department entered into a contract, through its committee, but the editorial and the classified-advertising departments refused. When the editorial-department employees informed Palmer that they would not violate the Guild constitution and deal directly with him through a committee, Palmer asked, "Don't you know what you want? Can't you make up your own minds? Do you prefer to have someone in Washington or New York or some place dictate to you?" On several other occasions Young and Brandon also commented unfavorably on the Guild's practice of using outside negotiators.

When the classified-advertising department employees, being desirous of acting through the Guild, refused to sign the contract offered by the respondent, Young informed them that their salaries would be the first to be reduced in the event that business decreased since the other departments would be protected under their contracts. While on one occasion

this remark was made in answer to a question of the employees, on another occasion it was entirely gratuitous.

Thus, while in 1936 the respondent discouraged collective activity, in 1937 after the appearance of the Guild it encouraged the formation of bargaining committees and sought contractual relations with them. It is apparent that the respondent altered its policy of dealing with its employees in order to head off the organizational campaign of the Guild.

On December 15, 1937, the Guild and the respondent commenced a series of negotiations which continued over a period of 5 months. On May 13, 1938, the parties tentatively agreed upon a contract. On May 14 and 16 the respondent discharged five Guild members. A strike ensued and the negotiations terminated.⁴

During the collective bargaining negotiations with the Guild, the respondent sought to discuss matters directly with the employees involved. Thus, the original contract proposed by the Guild provided that no reporter should do photographic work. During the discussion of that provision at a meeting between Palmer and the negotiators, Selby Calkins, an employee who had previously been assigned to such tasks, and who was present as an observer, was called upon to express his opinion. He stated

(4) The question of whether the discharges were discriminatory or whether the respondent's actions constituted a refusal to bargain in good faith is discussed below.

that he was desirous of performing only reportorial work. In discussing the matter, C. H. Garrigues, the executive secretary of the Guild, used the words "speed-up" and "stretch-out." The following day when Calkins was waiting to make a telephone call, Swisher, the managing editor, remarked that the "speed-up" and "stretch-out" did not appear to be disturbing him. A few moments later when Calkins passed his desk, Swisher said, "Jake, I don't understand you." Upon questioning by Calkins, he admitted that he had reference to Calkins' statement at the conference. Swisher thereupon sought to discuss other matters involved in the contract, but desisted promptly upon request. In similar vein, Swisher informed Alexander Swan, an editorial employee that if the Guild continued the contract negotiations, he would be negotiating himself out of a job inasmuch as retrenchment would be necessary if concessions were made to the Guild. Swisher also made a similar remark about Swan to Crow. On another occasion Young told Schlichter, a business-department employee who was subsequently discharged, that the progressive wage scale and severance pay provisions of the proposed contract would cause discharges and that Stanley Speer and one other employee would lose their jobs. The foregoing statements of supervisory employees were plainly calculated to destroy the prestige of the Guild and inculcate in the minds of the employees the fear that the efforts of their representatives would be profitless.

We find that by the continuing expressions of criticism and disparagement of the Guild, the criticism of the use of outside negotiators, the attempt to secure contracts with employees' committees in the various departments, the threat to cut wages in the event that the classified-advertising employees failed to sign a contract, and the threat to discharge employees if a contract with the Guild was consummated, the respondent interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

B. The alleged refusal to bargain⁵

The complaint alleges in substance that the respondent failed to bargain in good faith with the Guild. Between December 22, 1937, when the parties held their first bargaining conference, and May 13, 1938, when they held their last, the respondent met with the Guild on at least nine occasions, agreed to many of the Guild's proposals, and submitted four counterproposals. On May 13, 1938, the parties agreed upon a contract subject to the approval of the Citizen-News unit of the Guild and the international union. The contract contained provisions for wages and hours, severance indemnity, overtime, and other conditions of work; and appears to have been

(5) The respondent and the Guild bargained on behalf of the employees in the editorial department. It was not disputed that during the negotiations the Guild represented a majority of the respondent's employees in this department.

satisfactory to the Guild and the employees affected.

On many occasions during negotiations Palmer indicated that the adoption of many of the Guild proposals would necessitate the discharge of several employees. At the meeting of May 13, after all the terms of the contract had been agreed upon, Palmer informed the negotiators that he intended to discharge three employees and offered to furnish their names to the Guild. On May 14 and 16 Johnson, Scott, Yeaman, Thurlby, and Schlichter were discharged. On May 14, following the discharge of Johnson, Scott, and Yeaman, the Guild voted to strike. On May 17, upon the respondent's refusal to reinstate these employees, the Guild members went out on strike. At the time of the hearing the strike was still in effect and the contract had not been ratified.

During the oral argument before the Board, counsel for the Guild stated that "In July 1938, there was a strike settlement and the publishers signed the agreement . . . which had not been executed at the time the strike was called." We find below that the discharges did not constitute unfair labor practices.

We do not find that the respondent failed to bargain in good faith with the Guild within the meaning of Section 8 (5) of the Act.

C. The discharges

On May 14 and 16, the respondent discharged five employees. The complaint alleges that the employees

were discriminatorily discharged because of union membership and activity. The respondent contends that its action was impelled by a decline in business which rendered a policy of retrenchment advisable.

Palmer testified that business started to decrease in August 1937, reached its low in December, 1937, and continued at that level until the time of the discharges. In support of this statement, the respondent showed that the operations of the Citizen-News which had yielded a profit of \$27,000 for the first 5 months of 1937, showed a loss of \$1800 for the same period of 1938. Display-advertising revenues of the respondent had fallen from \$170,000 during the first 4 months of 1937 to \$150,000 in the corresponding period of 1938. In short, according to Palmer, expenses increased and income decreased. Thus early in the negotiations, Palmer informed the negotiators that a policy of retrenchment might become necessary because of economic conditions. Again, at the meeting of May 13, he informed the negotiators that he intended to discharge three employees and inquired if they wanted to know the names of the three. The negotiators replied in the negative saying that if the discharges were being made for the purposes of economy, they were not concerned. According to Palmer, he determined to effect the desired economies by reducing the amount of reading matter in the paper as well as the size of the staff. The amount of reading matter was reduced sometime in March or April. He testified

that he decided to delay the staff reductions until a time when all other matters were agreed upon, in order that such discharges might not disturb the negotiations.

Editorial Department. At the outset, it should be noted that all the employees in the respondent's editorial department were members of the Guild, and accordingly the fact that all the discharged employees were members thereof is of little importance. Palmer testified that his original plan was to reduce the editorial department pay roll by \$150, that he selected his assistant, Scott, and then determined that he could best spare one general reporter and one member of the drama department. For the reasons stated below, he determined to discharge Yeaman and Johnson.

Mellier Scott, employed chiefly as an editorial writer and editor of the readers' letters column, worked directly under Palmer. He was not a particularly active Guild member. In March 1938, when he requested a leave of absence, Palmer informed him that although there was nothing to prevent it, he could not guarantee him or anyone else a job 2 months hence because of business conditions. Palmer testified that he decided to take over Scott's work himself, and thus not unduly curtail the managing editor's staff.

Elizabeth Yeaman was an active Guild member, having served as secretary-treasurer of the Citizen-News unit of the Guild. At the conference between Palmer and the editorial employees in June 1937,

at which Palmer proposed a contract, she answered Palmer's query of whether they were not capable of bargaining for themselves with the statement that newspapermen were not and never had been capable of bargaining for themselves. A few days later her title of drama editor was taken from her and given to Crow. She admits, however, that Crow had theretofore been performing the editor's functions without the title. Upon her inquiring of Palmer whether or not he considered her demoted, a stormy session ensued in which Palmer cursed and swore at her and at the conclusion of which he informed her that if she should receive an offer of another position she should feel free to accept it. Thereafter Swisher urged Crow on several occasions to take over certain duties in connection with the drama department as his prerogative as editor. Palmer testified that, having determined to discharge one of the two drama-department employees, his choice lay between Crow, the president of the Citizen-News unit of the Guild, and Yeaman, its secretary-treasurer; that Crow was better at technical matters of make-up and caption writing, a fact admitted by Yeaman herself; and that Yeaman's work as a columnist was to a certain extent paralleled by syndicated columns to which the respondent subscribed.

Roger Johnson was perhaps the most active Guild member in the respondent's employ. He was one of the founders and had served as the first president of the Los Angeles Chapter of the American News-

paper Guild, and at the time of his discharge was a vice president thereof. The management frequently spoke to him about matters concerning the Guild rather than to the officers of the local unit and many of the statements outlined in Section III A, above, were directed to Johnson. In the course of his employment Johnson wrote a great number of feature stories and also covered the meetings of various breakfast and luncheon clubs. When the respondent reduced the amount of reading matter, it considerably reduced the amount of feature stories and eliminated the coverage of several of the eating clubs. Palmer testified that having decided to discharge one of the three general reporters, his choice lay between Johnson, Simonton, and Calkins. Calkins was an active Guild member, having served as acting treasurer of the Citizen-News unit and as a member of one of the Guild negotiating committees. Simonton was a delegate to the local C.I.O. Unit Council. According to Palmer's uncontradicted testimony, Simonton was the best reporter of the group. He further testified that Calkins' ability as a photographer and his greater versatility made Johnson the logical choice for discharge. Although Calkins was not assigned to the duties of a relief photographer in the schedule of assignments that the respondent posted on May 14, the schedule was an informal one.

Business Department. Palmer testified that, in accordance with his retrenchment policy, he re-

quested Young to estimate the value of all the employees working in his department and recommend discharges, and that Young recommended the discharge of Thurlby and Schlichter. Since the Trial Examiner, on motion of counsel for the Board, dismissed the complaint as to Thurlby without prejudice, we are no longer concerned with her case. Karl Schlichter was engaged primarily in preparing statistics concerning the Hollywood market area. Palmer testified that in the past the respondent had operated without anyone performing Schlichter's function, that national advertising, with which Schlichter's activities were primarily concerned, had decreased 40 per cent, and that it was accordingly a logical move to discharge him. There is no evidence that Schlichter was a particularly active member of the Guild.

Conclusions. Business conditions had long warranted a policy of retrenchment. Although the respondent delayed putting such policy into effect until the time the contract was submitted for ratification, it warned the employees of its intentions on several occasions prior thereto. Had it desired to disrupt and terminate negotiations as alleged in the complaint, we see no reason why the same discharges made during the course of the negotiations would not have been equally effective. The respondent's explanation that it delayed to avoid disrupting and terminating negotiations is reasonable. There is no evidence that the retrenchment

was excessive, or that new employees were hired to take the place of the discharged employees.⁶

The sole question remaining is whether the respondent discriminated in selecting the employees to be discharged in order to discourage union activity. In the editorial department, all employees were members of the Guild, and accordingly membership in the Guild, alone, is insufficient to show discrimination. No other reason is offered to substantiate the charge of discrimination in the case of Scott. Johnson and Yeaman were officers of the Guild and active therein. However, the respondent has given a reasonable explanation for its choice and the other employees whom the respondent would have been required to discharge as an alternative to the two selected were also active Guild members. The quarrel between Yeaman and Palmer, though acrimonious at the time, occurred about a year before the discharge. Although the Guild did not have unanimous membership in the business department of the *Citizen-News*, the choice of Schlichter, whose job was a newly created one and whose work was not immediately productive in a concrete way, was not an unreasonable move for an employer to make when faced with losses and the need for retrenchment.

We find that the respondent has not discriminated in regard to the hire and tenure of employment of

⁶The strike was still in progress at the time of the hearing.

Roger C. Johnson, Mellier G. Scott, Jr., Elizabeth Yeaman, and Karl Schlichter to discourage membership in the Guild.

IV. The effect of the unfair labor practice upon commerce

We find that the activities of the respondent set forth in Section III A, above, occurring in connection with the operations of the respondent described in Section I above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. The remedy

Having found that the respondent has engaged in certain unfair labor practices, we will order that it cease and desist from such practices and, to effectuate the purposes of the Act, we will order the respondent to post notices stating that it will so cease and desist. The respondent's employees will thus be assured that they may exercise the rights guaranteed by the Act without fear of interference, restraint, or coercion.

Upon the basis of the foregoing findings of fact and upon the entire record in the case, the Board makes the following:

CONCLUSIONS OF LAW

1. Los Angeles Newspaper Guild is a labor organization, within the meaning of Section 2 (5) of the Act.

2. By interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (1) of the Act.

3. The aforesaid unfair labor practices are unfair labor practices affecting commerce, within the meaning of Section 2 (6) and (7) of the Act.

4. The respondent has not discriminated in regard to the hire and tenure of employment of Roger C. Johnson, Mellier J. Scott, Jr., Elizabeth Yeaman, and Karl Schlichter, and has not thereby discouraged membership in a labor organization, within the meaning of Section 8 (3) of the Act.

5. The respondent has not engaged in unfair labor practices, within the meaning of Section 8 (5) of the Act.

ORDER

Upon the basis of the above findings of fact and conclusions of law, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, The Citizen-News Company, a corporation, and its officers, agents, successors, and assigns shall:

1. Cease and desist from in any manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining and other mutual aid and protection, as guaranteed in Section 7 of the Act.

2. Take the following affirmative action, which the Board finds will effectuate the policies of the Act:

(a) Immediately post notices in conspicuous places throughout its plant and maintain such notices for a period of at least sixty (60) consecutive days, stating that the respondent will cease and desist in the manner aforesaid;

(b) Notify the Regional Director for the Twenty-first Region in writing within ten (10) days from the date of this Order what steps the respondent has taken to comply herewith.

And it is further ordered that the allegations of the complaint charging the respondent with engaging in unfair labor practices within the meaning of Section 8 (3) and (5) of the Act be, and they hereby are dismissed, but that such dismissal of the allegations with respect to violations of Section 8 (3) of the Act shall be without prejudice to any and all rights of Helen Blair Thurlby.

Signed at Washington, D. C., this 26th day of March, 1940.

J. WARREN MADDEN

Chairman

(Seal)

EDWIN S. SMITH

Member

WM. M. LEISERSON

Member

National Labor Relations Board

In the United States Circuit Court of Appeals
for the Ninth Circuit

No. 9994

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

v.

THE CITIZEN-NEWS COMPANY, A CORPO-
RATION,

Respondent.

PETITION FOR ENFORCEMENT OF AN
ORDER OF THE NATIONAL LABOR RE-
LATIONS BOARD

To the Honorable, the Judges of the United States
Circuit Court of Appeals for the Ninth Circuit:

The National Labor Relations Board, pursuant to
the National Labor Relations Act (Act of July 5,
1935, 49 Stat. 449, c. 372, 29 U. S. C. §151 et seq.),

respectfully petitions this Court for the enforcement of its order against respondent, The Citizen-News Company, a corporation, and its officers, agents, successors, and assigns. The proceeding resulting in said order is known upon the records of the Board as "In the Matter of The Citizen-News Company, a corporation and Los Angeles Newspaper Guild, Case No. C-947."

In support of this petition, the Board respectfully shows:

(1) Respondent is a California corporation, engaged in business in the State of California, within this judicial circuit, where the unfair labor practices occurred. This Court therefore has jurisdiction of this petition by virtue of Section 10 (e) of the National Labor Relations Act.

(2) Upon all proceedings had in said matter before the Board, as more fully shown by the entire record thereof certified by the Board and filed with this Court herein, to which reference is hereby made, and including, without limitation, a complaint, respondent's answer to complaint, hearing for purpose of taking testimony and receiving other evidence, Intermediate Report, respondent's exceptions, and oral argument before the Board, the Board, on March 26, 1940, duly stated its findings of fact, conclusions of law, and order directed to respondent, The Citizen-News Company, a corporation, and its officers, agents, successors, and assigns. The aforesaid order provides as follows:

ORDER

Upon the basis of the above findings of fact and conclusions of law, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, The Citizen-News Company, a corporation, and its officers, agents, successors, and assigns shall:

1. Cease and desist from in any manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining and other mutual aid and protection, as guaranteed in Section 7 of the Act.

2. Take the following affirmative action, which the Board finds will effectuate the policies of the Act:

- (a) Immediately post notices in conspicuous places throughout its plant and maintain such notices for a period of at least sixty (60) consecutive days, stating that the respondent will cease and desist in the manner aforesaid;

- (b) Notify the Regional Director for the Twenty-first Region in writing within ten (10) days from the date of this Order what steps the respondent has taken to comply herewith.

(3) On March 26, 1940, the Board's decision and order was served upon respondent by sending a copy thereof postpaid, bearing Government frank, by registered mail, to Willis Sargent, Esquire, respondent's attorney in Los Angeles, California.

(4) Pursuant to Section 10 (e) of the National Labor Relations Act, the Board is certifying and filing with this Court the transcript of the entire record in the proceeding before the Board, including the pleadings, testimony, evidence, findings of fact, conclusions of law, and order of the Board.

Wherefore, the Board prays this Honorable Court that it cause notice of the filing of this petition and transcript to be served upon respondent and that this Court take jurisdiction of the proceedings and of the questions determined therein and make and enter upon the pleadings, testimony and evidence, and the proceedings set forth in the transcript and upon the order made thereupon set forth in paragraph (2) hereof, a decree enforcing in whole said order of the Board, and requiring respondent, and its officers, agents, successors, and assigns, to comply therewith.

NATIONAL LABOR RELATIONS
BOARD

By LAURENCE A. KNAPP,

Associate General Counsel.

Dated at Washington, D. C., this 5th day of
December, 1941.

District of Columbia—ss.

Laurence A. Knapp, being first duly sworn, states that he is Associate General Counsel of the National Labor Relations Board, petitioner herein, and that he is authorized to and does make this verification in behalf of said Board; that he has read the foregoing petition and has knowledge of the contents thereof; and that the statements made therein are true to the best of his knowledge, information, and belief.

LAURENCE A. KNAPP,
Associate General Counsel.

Subscribed and sworn to before me this 5th day of December, 1941.

[Seal] DANIEL T. GHENT, JR.,
Notary Public, District of Columbia.

My commission expires August 31, 1944.

[Endorsed]: Filed Dec. 9, 1941. Paul P. O'Brien,
Clerk.

CCA 9: #9994.

[ORDER TO SHOW CAUSE.]

United States of America—ss.

The President of the United States of America
To The Citizen-News Company, a corporation, 1545
N. Wilcox Avenue, Hollywood, California, and
Los Angeles Newspaper Guild, 1031 S. Broad-
way, Los Angeles, California, Greeting:

Pursuant to the provisions of Subdivision (e) of Section 160, U. S. C. A. Title 29 (National Labor Relations Board Act, Section 10(e)), you and each of you are hereby notified that on the 9th day of December, 1941, a petition of the National Labor Relations Board for enforcement of its order entered on March 26, 1940, in a proceeding known upon the records of the said Board as "In The Matter of the Citizen-News Company, a corporation, and Los Angeles, Newspaper Guild, Case No. C-947," and for entry of a decree by the United States Circuit Court of Appeals for the Ninth Circuit, was filed in the said United States Circuit Court of Appeals for the Ninth Circuit, copy of which said petition is attached hereto.

You are also notified to appear and move upon, answer or plead to said petition within ten days from date of the service hereof, or in default of such action the said Circuit Court of Appeals for the Ninth Circuit will enter such decree as it deems just and proper in the premises.

Witness, the Honorable Harlan Fiske Stone, Chief Justice of the United States, this 9th day of December in the year of our Lord one thousand nine hundred and forty-one.

[Seal]

PAUL P. O'BRIEN,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

RETURN ON SERVICE OF WRIT

United States of America,
Sou. District of Calif.—ss.

I hereby certify and return that I served the annexed order to show cause on the therein-named, Los Angeles Newspaper Guild, by handing to and leaving a true and correct copy thereof with Urcel Daniel, its administrative officer, personally at Los Angeles, Cal., in said District on the 10th day of December, 1941.

ROBERT E. CLARK,

U. S. Marshal.

By JOHN P. BROOKE,

Deputy.

Marshal's Fees—\$4.00

Mileage—\$.30

Expenses—\$.....

Total—\$4.30

RETURN ON SERVICE OF WRIT

United States of America,
Sou. District of Calif.—ss.

I hereby certify and return that I served the annexed order to show Cause on the therein-named The Citizen-News Company, a corporation, by handing to and leaving a true and correct copy thereof with Mr. Charles D. Thompson, its secretary, per-

sonally at Los Angeles, Calif., in said District on the 10th day of December, 1941.

ROBERT E. CLARK,

U. S. Marshal.

By JOHN P. BROOKE,

Deputy.

[Endorsed]: Filed Dec. 15, 1941. Paul P. O'Brien,
Clerk.

[Title of Circuit Court of Appeals and Cause.]

ANSWER OF RESPONDENT, THE CITIZEN-
NEWS COMPANY, TO PETITION FOR
ENFORCEMENT OF AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD

To the Honorable, the Judges of the United States
Circuit Court of Appeals for the Ninth Circuit:

The Citizen-News Company, Respondent in the above entitled matter, in accordance with Section 10 (e) of the National Labor Relations Act (49 Stat. 449, Chapter 372, approved July 5th, 1935), hereby answers the Petition presented to this Honorable Court for the enforcement of a certain Order of the National Labor Relations Board, hereinafter referred to as the "Board".

In answer to the said Petition to this Honorable Court, Respondent respectfully admits, denies and alleges as follows:

(1) Admits the allegations contained in paragraph (1) of said Petition to the extent that Re-

spondent is a California corporation, engaged in business in the State of California, within this judicial circuit, but denies the allegations that it committed any unfair labor practices or that any unfair labor practices occurred by reason of Respondent or its operations in any manner whatsoever, and denies that this Court has jurisdiction of or over this Petition by virtue of Section 10 (e) of the National Labor Relations Act, or otherwise, for the reason that the activities and operations of Respondent, whether as set forth by the Board in the Order sought to be enforced in this proceeding, or otherwise, do not have a close, intimate or substantial relation to trade, traffic or commerce among the several states, and do not lead, or tend to lead, to labor disputes burdening or obstructing commerce, or the free flow of commerce.

(2) Admits the allegations contained in paragraph (2) of said Petition to the extent that proceedings were had in the said manner before the Board and that on March 26th, 1940, the Board did issue and direct its Order to Respondent in the language set forth in said paragraph (2) of the said Petition, but Respondent denies that there was oral argument by Respondent before the Board, and Respondent further denies that the Board had, or has, jurisdiction over Respondent, either for the purpose of proceeding against Respondent, or for the purpose of issuing or directing its Order to Respondent, or otherwise, in any manner whatsoever,

for the reasons set forth in paragraph (1) above of Respondent's answer to the Board's Petition.

(3) Admits the allegations of paragraph (3) of said Petition.

(4) Admits the allegations contained in paragraph (4) of said Petition, except that Respondent denies the Board had, or has, jurisdiction over Respondent to so proceed under Section 10 (e) of the National Labor Relations Act, or otherwise, as it is seeking to proceed by its Petition to this Court.

(5) In further answering the Board's Petition, Respondent respectfully alleges that the Board's Findings of Fact as to those matters set forth in its said Order, for which it seeks enforcement from this Court, are not supported by the substantial and material evidence introduced and received at the trial; and that its Findings of Fact are inadequate, incomplete and insufficient in that important facts which are conclusively established by substantial and material evidence in the case have been disregarded or ignored by the Board; and that its Conclusions of Law pertaining to the matters contained in its said Order, and the provisions themselves set forth in its said Order, for which it seeks enforcement from this Court, are invalid and void as to Respondent, and based on improper, insufficient and unsupported Findings of Fact, unwarranted by the substantial and material evidence contained in the record in this case.

(6) In further answering the Board's Petition, Respondent respectfully alleges that it set forth in

its Exceptions to the Intermediate Report of the Examiner, who presided at the hearing, its objections to certain of his Findings, later adopted by the Board, to certain of his Conclusions of Law, also adopted by the Board, and to certain of his Recommendations, later adopted by the Board, all as portions of the Order which it now seeks to enforce; that the Board erroneously, arbitrarily and in abuse of its discretion, overruled, disregarded and failed to take into consideration certain of Respondent's exceptions to the said Intermediate Report of the Examiner; and that since the said Exceptions are part of the record in this case and are to be printed as part of the transcript of record herein, Respondent hereby incorporates each and every objection contained therein, insofar as applicable to the order of the Board sought to be enforced herein, and to the Findings of Fact and Conclusions of Law upon which the said Order is purported to be based, as fully and completely as if entirely set forth herein.

(7) In further answering the Board's Petition, Respondent respectfully alleges that the said Order of the Board, and each and every part thereof, insofar as directed to compliance by Respondent, is invalid and void for the following reasons:

(a) That Paragraphs (1) and (2) of the said Order as drawn, if enforced, would deprive Respondent and its officers, agents, successors or assigns, of their freedom of speech and the freedom of press under Amendment 1 to the Constitution of the United States.

(b) That paragraph (2) of the said Order as drawn, if enforced, would deprive Respondent of the protection of Amendment 5 of the Constitution of the United States, in that the National Labor Relations Act, when construed under the requirement of the due process clause of the said Amendment 5 to the Constitution of the United States, does not and could not authorize the Board to order and require Respondent to post any notices admitting, stating or implying that it has heretofore engaged in any unfair labor practices, or that it will cease and desist from engaging in any such unfair labor practices in the future.

Wherefore: Respondent prays that the Petition herein be dismissed, that the Board's Order insofar as directed to Respondent be set aside, and that Respondent be given such other and further relief in the premises as to the Court may seem just and proper.

Dated: This 17th day of December, 1941.

THE CITIZEN-NEWS COMPANY
By HARLAN G. PALMER,

President.

WILLIS SARGENT,

Attorney for Respondent,

Suite 622, Title Insurance Bldg.

433 South Spring Street,

Los Angeles, California.

Telephone: MIchigan 7434.

State of California

County of Los Angeles—ss.

Harlan G. Palmer, being by me first duly sworn, deposes and says:

That he is the President of The Citizen-News Company, Respondent in the above entitled action; that he has read the foregoing Answer of Respondent, The Citizen-News Company, to Petition for Enforcement of an Order of the National Labor Relations Board, and knows the contents thereof; and that the same is true of his own knowledge, except as to the matters which are therein stated upon his information or belief, and as to those matters that he believes it to be true.

That he makes this verification for and on behalf of The Citizen-News Company, Respondent herein.

HARLAN G. PALMER.

Subscribed and Sworn to before me this 17th day of December, 1941.

(Seal) EDITH CETTO,

Notary Public in and for the County of Los Angeles, State of California.

[Endorsed]: Filed Dec. 19, 1941. Paul P. O'Brien, Clerk.

[Title of Circuit Court of Appeals and Cause.]

ANSWER OF LOS ANGELES NEWSPAPER
GUILD TO PETITION OF NATIONAL
LABOR RELATIONS BOARD FOR EN-
FORCEMENT OF ORDER OF SAID
BOARD.

Comes now the Los Angeles Newspaper Guild, and for answer to Petition for Enforcement of an Order of The National Labor Relations Board, admits, denies and alleges:

I.

The Los Angeles Newspaper Guild admits each, every and all of the allegations of the Petition of the National Labor Relations Board for enforcement of the Order of said National Labor Relations Board, dated March 26th, 1940, and set forth in full in said Petition.

Wherefore, Los Angeles Newspaper Guild prays that this Honorable Court take jurisdiction of the proceedings and questions determined therein, and make its Order herein enforcing in whole said Order of the National Relations Board, and requiring respondent, Citizen-News Company, a corporation, its officers, agents, successors, and assigns to comply therewith.

LOS ANGELES NEWSPAPER
GUILD,
By URCEL DANIEL,
Administrative Officer.

Dated at Los Angeles, California, this 18th day of December, 1941.

JOHN A. CRONIN,

Attorney for Los Angeles
Newspaper Guild.

United States of America,
State of California,
County of Los Angeles—ss.

Urcel Daniel, being first duly sworn, states that she is the Administrative Officer of the Los Angeles Newspaper Guild, whose Answer is being filed herein, and that she is authorized to and does make this verification on behalf of said Los Angeles Newspaper Guild; that she has read the foregoing Answer of the Los Angeles Newspaper Guild, and knows the contents thereof, and the statements made therein are true to the best of her knowledge, information and belief.

URCEL DANIEL.

Subscribed and sworn to before me this 19 day of December, 1941.

(Seal)

JOHN A. CRONIN,

Notary Public in and for the County of Los Angeles, State of California.

My Commission Expires August 2nd, 1942.

[Title of Circuit Court of Appeals and Cause.]

AFFIDAVIT OF SERVICE OF ANSWER OF
LOS ANGELES NEWSPAPER GUILD TO
PETITION OF NATIONAL LABOR RELA-
TIONS BOARD FOR ENFORCEMENT OF
ORDER OF SAID BOARD.

State of California,
County of Los Angeles—ss.

John A. Cronin, being first duly sworn, deposes and says that he is a citizen of the United States, over the age of 21 years, and not a party to the within entitled action, and is the attorney of record for Los Angeles Newspaper Guild; that affiant's business address is 453 S. Spring Street, Los Angeles, California; that affiant served copies of the Answer of Los Angeles Newspaper Guild to Petition of National Labor Relations Board for Enforcement of Order of said Board, on file herein, on the National Labor Relations Board, and Willis Sargent, attorney for respondent, The Citizen-News Company, a corporation by placing a copy of said Answer in an envelope addressed to

Willis Sargent, Attorney at Law, 622 Title Insurance Bldg., Los Angeles, Cal.,

and one copy in an envelope addressed to

National Labor Relations Board, Washington,
D. C.

That each of said envelopes was sealed and postage fully prepaid thereon, and thereafter and on December 19th, 1941, were deposited in the United States Post Office at Los Angeles, California. That

there is a delivery service by United States Mail at the places so addressed or regular communication by United States mail between the place of mailing and the place so addressed.

JOHN A. CRONIN.

Subscribed and sworn to before me, this 19th day of December, 1941.

(Seal) GEORGE H. PRATT,
Notary Public in and for said County and State.

[Endorsed]: Filed Dec. 20, 1941. Paul P. O'Brien, Clerk.

Before the National Labor Relations Board
Twenty-First Region
Case No. XXI-C-701

In the Matter of:

THE HOLLYWOOD CITIZEN-NEWS COM-
PANY, a corporation

and

LOS ANGELES NEWSPAPER GUILD.

TESTIMONY

Room 442, Pacific Electric Bldg.
Sixth and Main Streets
Los Angeles, California
Tuesday, July 5, 1938

The above-entitled matter came on for hearing, pursuant to notice, at 9:40 o'clock a. m.

Before:

George E. Kennedy, Trial Examiner.

Appearances:

David Persinger, Attorney on behalf of the
National Labor Relations Board.

Willis Sargent, 810 Title Insurance Bldg., Los
Angeles, California, on behalf of the Re-
spondent The Hollywood Citizen-News Com-
pany, and Frank B. Belcher, 808 Security
Bldg., Los Angeles, California, on behalf of
the Respondent.

Carey McWilliams, 900 Spring Arcade Build-
ing, Los Angeles, California, on behalf of
Los Angeles Newspaper Guild, Complainant.

[1*]

PROCEEDINGS

(Conference between counsel.)

Mr. Sargent: Your Honor, may I say at the
start that Mr. Frank Belcher is associated in this
case. His mother died yesterday I am informed,
and therefore, it may be a day or two before he is
with us in person. I have asked that he be noted as
one of the counsel in the case.

Trial Examiner Kennedy: The reporter will so
note.

Mr. Sargent: Before we begin the case, your
Honor, I would like to refer to the answer, page

*Page numbering appearing at top of page of
original Reporter's Transcript.

12, lines 28 and 29. The date is given in the answer as Tuesday, May 13. That is a typographical error and should have been Tuesday, May 17, as apparent from reading the paragraph, and I ask that the answer be changed at this time to conform to that date, of May 17.

Trial Examiner Kennedy. The request will be granted.

There is one formal announcement which I am required to make, and I might as well make it at this time for the record.

All parties are informed that the Board's reporter makes the only official transcript of these proceedings. Citations, briefs, or arguments based upon the record must cite the official transcript in all references to the record. The Board will not certify any transcript other than its official transcript for use in any court litigation.

Mr. Persinger: May it please the Examiner, I think the record should show that for the past approximately one hour [2] counsel for the Board and counsel for the Respondent have been working on a Board exhibit and on a stipulation.

I will offer as Board's Exhibit 1 the evidence file containing copy of the original charge filed May 16 by the Los Angeles Newspaper Guild, copy of the amended charge filed June 24; the complaint and notice of hearing issued June 27; affidavit of service of the complaint, and notice of hearing on the Respondent and Mr. Sargent as counsel for Respondent, on the complaining Guild, on Carey Mc-

Williams as attorney for the Guild—Carey McWilliams may appear later—I don't know; he hasn't told me—the return receipts signed by Respondent, Respondent's counsel and by Mr. McWilliams; amended notice of hearing which corrected a typographical error in the notice of hearing, which amended notice of hearing was issued June 29; the affidavit of service of the amended notice of hearing on Respondent, Respondent's counsel, the Guild, and the Guild's counsel; and return receipts by Respondent, Respondent's counsel, and counsel for the Guild, and the answer of Respondent.

I will call the Examiner's attention to the fact that the Respondent's answer admits that the Guild is a labor organization and does not question the unit.

I offer this as Board's Exhibit 1.

Trial Examiner Kennedy: It will be so received.

(Thereupon the documents above [3] referred to were received in evidence and marked as Board's Exhibit No. 1.)

Mr. Persinger: I wish to ask leave to amend the complaint, to change the style of the case from "Hollywood Citizen News Company" to read, "The Citizen News Company," in accordance with the answer filed by Respondent.

Mr. Sargent: No objection.

Trial Examiner Kennedy. It will be granted.

Mr. Persinger: I wish to amend paragraph 8 of the complaint which sets out the unit to more

definitely state the individuals excluded. Paragraph 8 merely says that certain supervisory officials shall be excluded, and doesn't specify which ones. I wish the unit to be the editorial staff as set forth in that paragraph, excluding Mr. Swisher, the managing editor, Mr. Harold Hubbard, the city editor, and Miss Zuma Palmer, the radio editor.

Mr. Sargent: No objection.

Trial Examiner Kennedy: Leave granted.

Mr. Persinger: And I also at this time wish to dismiss the complaint without prejudice as to Helen Blair Thurly, who is ill and who is unable to appear and testify.

Trial Examiner Kennedy: It will be granted.

Mr. Persinger: It is then agreed between counsel for the Board and counsel for Respondent that we may stipulate that the evidence introduced on the question of the Board's [4] jurisdiction and the business of the company in case No. XXI-C-606, being the case of the Citizen News Company—I believe Hollywood Citizen News Company, as it was originally—and the International Typographical Union, that the Board may consider the evidence relating to the Board's jurisdiction which was made a part of that record, as a part of this record, and may base their findings of fact on jurisdiction on that evidence.

[Clerk's Note: Excerpts from case No. XXI-C-606 set forth at pages 168 to 231 of this printed record.]

Mr. Sargent: That is agreeable, it being understood that the denial of jurisdiction is just as strong in this case as in that one.

Mr. Persinger: We may as well settle one other formality. It is customary that where objections are made, or motions are made, that it is not necessary to take an exception to adverse rulings; that the exception is covered automatically.

Trial Examiner Kennedy: That was covered by a recent Supreme Court decision. There was some comment on that situation.

Mr. Sargent: May it please the Examiner, I have no objection to the amendment by counsel of the Board of paragraph 8 of the complaint and the inclusion of the names of the three alleged supervisory employees. I do not wish that stipulation to be taken to admit that each of those three has the authority alleged in the complaint to hire or discharge; and while I have no objection to the amendment, I want to make it plain [5] that our answer, in admitting paragraph 8, as originally drawn, does not now, because paragraph 8 in the complaint has been amended, carry with it the admission that those three employees have the power to hire or discharge.

Trial Examiner Kennedy: It will be so understood.

Mr. Persinger: If the Examiner please, perhaps I didn't make the amendment clear. I wish to substitute the three specific individuals for the general clause, "supervisory employees with authority to hire or discharge," and I will later introduce evi-

dence to show why those are properly excluded from the unit. So the phrase as used there, "exclusive of supervisory employees with authority to hire and discharge," should be struck altogether and should read, exclusive of the three persons I have named.

Mr. Sargent: We would have no objection to the amendment of paragraph 8 if the words "with authority to hire or discharge" were stricken from the section or paragraph.

Trial Examiner Kennedy: I think the matter is straight now, and understood by counsel.

[Clerk's Note: Here follows excerpts from case No. XXI-C-606 "In the Matter of Hollywood Citizen-News and Los Angeles Typographical Union, Local No. 174". These excerpts end at page 231 of this printed record.] [6]

[Excerpts from Case No. XXI-C-606.]

HARLAN G. PALMER

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Walsh) Will you state your name, please? A. Harlan G. Palmer.

Q. Where do you live, Mr. Palmer?

A. At 926 North Orlando, Hollywood, California.

Q. What is your business or occupation?

A. Publisher.

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

Q. And what do you publish?

A. Publish the Hollywood Citizen-News.

Q. That is a daily paper?

A. Yes, sir.

Q. What is the address of that publication?

A. 1545 North Wilcox Avenue, Hollywood, California.

Q. Who owns the physical properties of the paper?

A. A corporation, the Citizen-News Company.

Q. Do you hold any office with that corporation?

A. President of the Company.

Q. How long have you been the president of that corporation? A. Since its inception in 1931.

Q. How old a publication is the Hollywood Citizen-News?

A. The Hollywood Citizen is about 34 years.

Q. Is your present publication, the Hollywood Citizen-News [13] a consolidation of two or more publications that have been consolidated sometime in the past?

A. In 1931, the Hollywood Citizen purchased the Hollywood News.

Q. How long have you been connected with the publication of these two papers, or either of them?

A. I have been connected with the publishing of the Hollywood Citizen from 1911.

Q. Did you have any previous connection with the Hollywood News? A. None.

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

Q. Until you acquired it in 1931, is that correct?

A. That is correct.

Q. Will you describe for us the physical properties which go to make up the Hollywood Citizen-News? Tell us what your plant is—the building. Give us a picture of your operations.

A. The Citizen-News Company owns, outside of a central plant of operation, a stationery store at 6362 Hollywood Boulevard. It has a beneficiary interest in a trust agreement which holds title to a two story building with basement, at 1545 North Wilcox Avenue, and the plant included therein. That plant consists of office furniture, intertype and linotype—composing machines, types, faces, Ludlows, a 6 unit Goss press, and machinery incidental to the printing of publi- [14] cations.

Q. Do you print any other publications other than the Hollywood Citizen-News?

A. We print a publication known as the Hollywood Advertiser. We print a publication known as the Hollywood Shopping News. We print a publication known as the Daily Variety. We do the press work on a couple of San Fernando Valley papers. We do the composition and press work on some community newspapers, and carry on a commercial job printing service.

Q. The Hollywood Citizen-News is printed six times a week, is it not? A. Yes, sir.

Q. Daily except Sundays, is that correct?

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

A. Yes, sir.

Q. What is the average circulation of the Hollywood Citizen-News?

A. At the present time we are printing better than 30,000 copies of the Citizen-News. The net paid a day is in the vicinity of 29,000.

Q. So for the purpose of establishing advertising rates, you claim a net circulation rate of 29,000?

A. No. For the purpose of establishing the advertising rates we use what is known as the A. B. C. figure.

Q. And A. B. C. refers to Audit Bureau of Circulation, does it? [15]

A. Yes, sir.

Q. That is a Bureau that keeps track of the circulation of a great number of newspapers in the United States, is it not?

A. That's right.

Q. Does the A. B. C. credit you with approximately 29,000 net paid?

A. No, sir. The last A. B. C. figure we had would be for the six months' period ending October 1st. It would be the average of that.

Q. The preceding six months?

A. Yes, sir.

Q. What is the last A. B. C. figure? Do you have that?

A. No, sir. I cannot distinctly recall that. I believe it would be in the vicinity of 26,000.

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

Q. Do you have with you a copy of the last A. B. C. report? A. No, I do not.

Q. Do you have a copy of your last publisher's statement? A. No, sir.

Q. Judge Palmer, in your answer you have set forth that your circulation is wholly within California, except one-half of one percent of the circulation of your paper? A. Yes.

Q. Do you happen to have the exact figures available?

A. No. That would vary from day to day, but the day on which the count was made, the out-of-state circulation was [16] one hundred and twenty-five copies.

Q. One hundred and twenty-five copies of approximately 26,000? Is that right?

A. Well, at that time the circulation was more than 26,000.

Q. It was?

A. It was approximately 28,000 at that time.

Q. Well, that varies a great deal?

A. The out-of-state circulation?

Q. Yes. A. No, sir.

Q. That is all on subscription, I suppose?

A. Yes, sir.

Q. You are a member of the Associated Press, I believe? A. Yes, sir.

Q. Would you describe for the Examiner the

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

relationship that exists between yourself, or your Company, rather, and the Associated Press?

A. We get an Associated Press news service. It comes to us over a teletype machine from the Los Angeles office of the Associated Press, and we pay whatever we are assessed for that service.

Q. They are paid for the cost of supplying the service to you?

A. Well, I wouldn't want to state just what the payments include. That is fixed by the board. There is an assessment, [17] and we pay it.

Q. Will you explain to Examiner Lucas, whom I assume has had no experience in the publishing field, just what membership in the Associated Press does for you, and what do you do for the Associated Press by reason of being a member?

A. Well, being a member of the Associated Press entitles us to receive Associated Press news service.

Q. That news comes to your plant from the Los Angeles office of the Associated Press, does it not?

A. Yes, sir.

Q. How many teletype machines—I mean, it comes by way of teletype, does it not?

A. Yes, sir.

Q. How many teletype machines are there in your plant upon which that service, or from which that service is taken?

A. Well, I think there is never more than one

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

machine operating at one time to bring the news service. There is an auxiliary machine there, and if anything happens to one machine——

Q. There are two teletype machines there, but only one is in operation; is that right?

A. Yes.

Q. And outside——

A. And then we have an Associated Press financial wire service.

Q. That supplements your news service, does it? [18]

A. Yes. That comes on another special teletype machine.

Q. Do you have any employees whose duty it is to watch those machines, or to take the copy from them?

A. Yes, sir.

Q. How many people are engaged in that work, do you know?

A. One person takes care of clipping the copy off the machine.

Q. It is usually the office boy's job, isn't it?

A. The office boy's job.

Q. And he takes it to the City Editor, doesn't he?

A. Yes, or the office manager, or the center desk, anyway.

Q. The market service—I assume that requires a little different service. That is your wire service?

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

A. Yes, that comes on a tape, and is pasted on a form.

Q. You have no person whose duty it is to take care of that?

A. The office boy generally does that.

Q. He does that, too? A. Yes.

Q. Now, do you know, or do you have any figures, that would indicate approximately how many words a day you receive on the Associated Press news? A. No, I haven't.

Q. Could you tell us how many hours a day that machine is in operation?

A. No, sir, not with accuracy, because I am hazy as to whether that machine starts at 7:00 o'clock in the morning, or just [19] what hour it does start.

Q. The Hollywood Citizen is an afternoon paper, is it not?

A. Yes. It starts in the morning and runs until 3:00 o'clock in the afternoon.

Q. Perhaps the best way to find that out is to examine your counsel, because he knows a little more about it, I guess.

Now, do you have any employees whose duty it is to gather news, especially for the Associated Press?

A. No, sir.

Q. Does the Associated Press pay any of your employees any extra compensation for furnishing the extra news?

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

A. Not to my knowledge. I think the arrangement would be, though, if any of our boys sent a story to the Associated Press, that the Associated Press would pay them for it.

Q. Would pay the boys personally?

A. But I have no knowledge of that.

Q. I know it is the custom that in certain other newspapers the Associated Press pays them \$10.00 a week for watching——

A. No, there is no stipulation like that. They would be paid only in the event they sent a story to the Associated Press.

Q. Any news stories gathered by your employees are available to the Associated Press, are they not?

A. The newspaper itself.

Q. Beg pardon? [20]

A. The news contained in the newspaper itself is available to the Associated Press. They can take from it anything they want.

Q. Supposing that a story occurred in your area that might not be of any value to you, but it might be of news value to the Cleveland Plain Dealer, for instance. How would that story be handled?

A. Any story of any consequence——

Q. Yes.

A. —the Associated Press would send a man to get it.

Q. The Associated Press would send a man to get it?

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

A. Yes. They have their branch in Los Angeles.

Q. I see.

A. A man from their staff—their branch in Los Angeles.

Q. Do you from time to time get inquiries from the Associated Press on certain stories; they ask you to check certain things within your area?

A. I don't believe so, because our being a part of the City of Los Angeles, and they have their own staff in Los Angeles.

Q. That would be covered out of the main office?

A. It would be covered by their own staff.

Q. Do you know approximately how much news the Associated Press would use that is gathered by your staff, over a period of years?

A. Gathered by our staff? [21]

Q. Yes.

A. Well, practically nil, but there might be a trace.

Q. I see. Now, what is the geographical area that your franchise from the Associated Press covers?

A. I don't believe there are any restrictions on our area excepting that we shall publish that newspaper at Hollywood.

Q. I see.

A. We have no restrictions on our circulation area, if that is what you mean.

Q. No. I was thinking of the availability of news

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

or your responsibility for furnishing news to the Associated Press, of a given area.

A. I know of no such restriction. We, of course, must carry the Hollywood date line on our paper, and must have a plant in Hollywood.

Q. In order to maintain your membership?

A. In order to maintain our membership.

Q. Does your Company delegate an officer to act as a member of the Associated Press?

A. Yes, sir.

Q. And are you that officer? A. Yes, sir.

Q. Do you attend their conventions?

A. I haven't thus far.

Q. Do you anticipate that you will? [22]

A. That is a question.

Q. The Associated Press is a non-profit membership corporation organized under the laws of New York, are they not?

A. I can't say under what laws that it is organized.

Q. If I told you that is where it was organized—

A. I would believe you, Mr. Walsh.

Q. Do you know how the Associated Press operates? Can't we stipulate on that?

Mr. Sargent: I think so. Suppose you frame the stipulation?

Mr. Walsh: I would like to stipulate with counsel that the Associated Press is a membership corporation organized and existing under and by virtue

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

of the laws of the State of New York; its principal office is in the City of New York; that the Associated Press is made up of approximately 1350 daily newspapers in the United States, and that the Associated Press is engaged in the business of gathering and transmitting news and intelligence; that the day newspapers that are members of the Associated Press each pay a pro-rata share of the cost of the operation of the entire press service; that the news gathered by any one of the members of the Associated Press is available to all of the other members of the Associated Press——

The Witness: I think a question should be raised there.

Mr. Walsh: I beg your pardon? [23]

The Witness: A question should be raised there.

Mr. Walsh: All right. If I am wrong——

The Witness: The Associated Press, of course, gives to each member only such service as that member requests.

Mr. Walsh: I see.

The Witness: Some newspapers might obtain all the service which the Associated Press gathers, if they wish to pay for it; some newspapers can take only a pony service, which would be merely over the telephone, or something of that character. They get only the kind of service they pay for.

Mr. Walsh: The news is available if they want to pay for it?

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

The Witness: The news is available if they want to pay for it.

Mr. Walsh: That the news gathered by any of the members of the Associated Press is available to any other members, provided they request the service and pay a charge therefor; that the Associated Press transmits its news and intelligence between its members by the means of leased wires. That——

Mr. Sargent: I can't positively stipulate about that, because I am not sure about the leased wires.

Is that the case, Judge?

The Witness: It would be in some instances.

Mr. Sargent: I believe that is the only part of the stipulation that I haven't had of my own knowledge. I want [24] you to correct me, Judge, if something comes up that I am not sure of. I am not sure on that one point.

Mr. Walsh: That the news is received by the individual members of the Associated Press by means of teletype machines; that the said machines, are, so far as this Respondent is *cerned*, owned by the Associated Press;

That the Associated Press maintains a photo service by which service the Associated Press transmits among its members who desire such service and pays for the same, photos by means of transmitting devices owned by the Associated Press——

Q. (By Mr. Walsh) Do you have that photo service? A. Not the wire service, no.

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

Q. Not the wire service? A. No, sir.

Q. Do they maintain a mail photo service?

A. Yes, sir.

Q. Other than the wire service?

A. Yes, sir.

Mr. Walsh: That all the photographs taken by the members of the Associated Press are available to all other members upon request and payment therefor——

Mr. Sargent: Is that correct?

The Witness: Yes. They pay for it.

Mr. Walsh: Yes. That the Associated Press maintains correspondents in the principal cities of the world, which [25] correspondents furnish through the Associated Press news items by means of mail, telegraph or wireless—by means of wireless telegraphy.

I ask counsel to agree on that stipulation.

Mr. Sargent: First, I want to ask Judge Palmer if there is anything you said that is wrong, before I agree with that.

The Witness: The transmission by leased wires, I would put in the intersection there—in some instances by leased wires.

Mr. Walsh: All right. Let's qualify it so far as your knowledge is concerned.

The Witness: And the wire photo service only to those newspapers that pay for it, but we are not one of the newspapers that pay for it.

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

Mr. Sargent: Is it also true, Judge, that there are about 1350 members of the Associated Press?

The Witness: I will have to believe Mr. Walsh. I don't know.

Mr. Walsh: I believe that it is accurate.

Mr. Sargent: There are about 2000 daily newspapers, and I don't know how many belong to the Associated Press, but I think that may represent a rough approximation. I assume that figure is correct.

Before agreeing to the stipulation, I want to ask Judge Palmer a further question as to whether or not all the news [26] and intelligence which is received by the Respondent comes within the State of California.

The Witness: Our Associated Press service comes from the office in Los Angeles, California.

Mr. Sargent: And does all the news and intelligence, which the paper receives from the Associated Press, come from Los Angeles?

The Witness: All the news?

Mr. Sargent: In other words, is the transmission of it, wherever the news source of the world may be, is the transmission of it through the Los Angeles office to you?

The Witness: Yes, sir.

Mr. Sargent: Do you get from any other source—from any source outside of the State of California, the news directly, or does it all come into

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

the Associated Press offices within the State of California?

The Witness: It comes through the Associated Press offices within the State of California.

Mr. Sargent: Then is it true, Judge, that regardless of where news originates, that all the news which the Associated Press distributes over teletype machines or otherwise, to the Hollywood Citizen-News, comes through its Los Angeles office of the paper?

The Witness: Yes.

Mr. Sargent: And with regard to any of the news stories [27] which, as you testified in a rare instance, might originate within the jurisdiction of the employees of your paper, any such stories as that would be given to the Associated Press representatives in what manner?

The Witness: By telephone to Los Angeles, or some communication to the Los Angeles office.

Mr. Sargent: Would all such communications be direct to the Los Angeles office of the Associated Press?

The Witness: Yes.

Mr. Sargent: To your knowledge, has there ever been occasions when this wasn't done? or is that the invariable custom?

The Witness: That would be the invariable custom.

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

Mr. Sargent: Has there ever been a time when the paper did anything other than the practice which you have indicated?

The Witness: No, sir. It goes through the office with which we are connected.

Mr. Sargent: And is the same true with respect to the photo service, and all other services of the Associated Press?

The Witness: I think our photo service can come and does come from both Los Angeles and San Francisco.

Mr. Sargent: But it comes within the State of California?

The Witness: Yes. Are you referring now to any mail photo service?

Mr. Sargent: To the manner in which it comes to your paper? [28]

The Witness: It comes from San Francisco and Los Angeles.

Mr. Sargent: And therefore is all within the State of California in the transmission to you by the Associated Press?

The Witness: Yes, sir.

Mr. Sargent: And is it also true that any photo of yours which might be used by the Associated Press would be sent by the paper to the Los Angeles office of the Associated Press?

The Witness: Yes, sir.

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

Mr. Sargent: I think, with that clarification, your Honor, it appears that the facts which Mr. Walsh has recited in his stipulation are believed by me to be correct.

He has suggested to me that in the last case we tried together, which was the San Diego Union Tribune, there was an expert witness put on by the newspaper, which I represented at the time—that the Associated Press executive came from San Francisco and testified at great length here in this building early in December of last year. The last date of that hearing was December 8th.

Mr. Walsh suggests, and in response to Mr. Walsh's request I said I had no objection to the further operations of the Associated Press, as I understand it in his testimony, being referred to by you as bearing upon the character, operation and business generally of the Associated Press. [29]

I am referring, of course, only to the general remarks of that particular witness, and not as to any remarks or testimony he may have said with respect to the Union Tribune, which was a paper that had somewhat of a different picture.

Mr. Walsh: Yes, I meant to call that testimony to the Examiner's attention only for the purpose of showing the relationship of the Associated Press to its members.

I think he testified quite in detail as to the operations of the system, and also in quite as much detail

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

to the operation of the system as applied to that particular newspaper.

Of course, that testimony will have no bearing on this particular newspaper.

Mr. Sargent: My stipulation will not be binding, of course, with respect to anything he said as affecting the individual paper, or any major papers where there might be a special set of circumstances not applicable to Respondent in this case.

Mr. Walsh: That is true.

Trial Examiner Lucas: Then, for the purpose of clarifying the record, the stipulation is as offered by Mr. Walsh, and as clarified by Mr. Sargent's questions to Mr. Palmer, is accepted by you, then, is it, Mr. Sargent?

Mr. Sargent: With the qualifications which Judge Palmer made in his answers during the time the questions were being propounded by Mr. Walsh and myself. [30]

Trial Examiner Lucas: Yes. The record will show that the stipulation, as offered and as clarified by the questions and the answers of the witness, will be accepted.

Mr. Walsh: I think we had better clarify the record as to our respective positions, as to the testimony taken in the Tribune case.

Trial Examiner Lucas: Yes. May we have a special stipulation on that, and give me the name of that witness, will you?

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

Mr. Sargent: I don't remember his name.

Mr. Walsh: I will look it up. We will find it. We will supply the Examiner the witness' name.

I am willing to stipulate that the Examiner may refer, and the Board may later refer, to the testimony of the witness produced by the Union Tribune Publishing Company in a case in which Mr. Sargent, as counsel for Respondent, and I was counsel for the Board. That witness testified here in Los Angeles on December 8th, 1937.

That the Examiner and the Board may consider his testimony as to the operation of the Associated Press in the United States—the witness' name was Standers—and in the State of California; bearing in mind, however, that any specific fact as relating to the Union Tribune Publishing Company and the operation of the San Diego Union and San Diego Tribune, will have no bearing on the issues in this trial, but is for [31] the particular information regarding the Associated Press operations.

Mr. Sargent: Judge Palmer, when Mr. Standers testified, he said that he sent to San Diego about 150 words per day.

Mr. Walsh: From San Diego 150 words per day.

The Witness: It must have been from San Diego; not to San Diego.

Mr. Sargent: Yes.

The Witness: Yes.

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

Mr. Sargent: Judge, when Mr. Standers testified, I believe he testified that San Diego sent the Associated Press approximately 150 words per day. Do you recall off-hand whether that figure would be high or low for your paper?

The Witness: There is no comparison between the two fields, because someone on the San Diego paper represents the Associated Press. It is the only representative that they have there.

In our community, the Associated Press has its own offices. They gather their own news in this area.

Mr. Sargent: So that there would be far less coming from your newspaper than the San Diego paper?

The Witness: As I stated before, it is practically nil, with the possible exception that some reporter might take it upon himself to try to communicate something, but the Associated Press office gathers its own news in our community. [32]

Mr. Sargent: I so stipulate.

Trial Examiner Lucas: The record will so show.

Q. (By Mr. Walsh): Now, let's progress to the United Press.

Judge Palmer, will you explain the relationship of the Hollywood Citizen-News to the United Press?

A. The United Press is a privately owned organization, and we contract with the United Press for whatever service we receive at the best price

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

our contractual ability will get for us. That service comes to us from San Francisco.

Q. You don't go through the city news service of the United Press in Los Angeles?

A. The city news service is a separate organization, as I understand it, owned by the United Press, supplying a service to such newspapers as subscribe for it, and covering local Los Angeles news, as its name implies.

Q. The United Press is a news gathering service which performs about the same service to your newspaper as the Associated; is that correct?

A. Yes, sir.

Q. The difference being that you have no interest in that organization, other than just whatever your contract for service calls for; is that right?

A. That's right.

Q. And you owe it no duty to supply the United Press with news appearing in your paper, do you?

[33]

A. No, sir.

Q. They don't have the right to take stories from your paper, do they?

A. Whether they have the right, I wouldn't say. I would assume, if they saw anything in our paper they wanted, they would re-write it, because the United Press does that with any newspaper that comes to their attention.

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

Q. So far as your relations with them, you are just the purchaser of a news service?

A. Yes, sir.

Q. Do you know the extent of the United Press, whether it is as large as the Associated Press in the coverage that it gives you?

A. We get from each about the same volume of news coverage. The United Press has an extensive coverage in some sections of the world, like South America. They have quite an extensive coverage.

Q. By what means is the news transmitted to your plant?

A. That comes by teletype machine from San Francisco.

Q. And how many machines are there receiving it?

A. One, and the auxiliary.

Q. And I suppose the same office boy takes care of that machine that takes care of the Associated Press, does he?

A. Yes.

Q. Do you get any other service from the United Press, other [34] than the news service? Do they have a photo service?

A. They might have one, but we don't get any.

Q. That is the only thing you get?

A. Yes.

Q. It is your thought that all the news you get, at least so far as you are concerned, comes from San Francisco origin?

A. The story material, yes. That has to be re-

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

typed on the teletype machine at the other office before it comes out to us.

Q. It is your thought, then, that San Francisco is the other terminus of the United Press office, and they make redistribution from there, is that it?

A. Yes, sir.

Q. In Paragraph 3 of the Complaint, the Board alleges that you buy syndicated material from certain services, and in Paragraph 3 of your answer, you admit that you purchase from all but one, I believe.

Would you tell me which one I included that you don't get service from?

A. Consolidated News Features. We did have at one time some service from them.

Q. Consolidated News Features? A. Yes.

Q. The Consolidated News Features, Inc. is no longer serving the Hollywood Citizen-News? [35]

A. No, sir.

Q. Can you tell us where the material comes from, from these various services?

A. The George Matthew Adams Service comes from New York City; the Ledger Syndicate Service comes from Philadelphia; the New York Tribune from New York City; the Chicago Tribune-New York News Syndicate comes in part from New York City, and in part is left directly with our office. For instance, that service covers a motion picture column written by Ed. Sullivan in Holly-

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

wood, who leaves a copy with us at the same time he puts it on the wire.

King Features Syndicate is New York; Bell Syndicate is New York; Register and Tribune Syndicate is Des Moines, Iowa; McClure Newspaper Syndicate is New York; McNaught Syndicate is New York City; Retail Reporting Bureau, I cannot say; Ullman Features Service is New York City.

Q. Does Ed Sullivan file his copy of the wire at your plant?

A. No, not at our plant. We haven't any wire for it. It reminds me that the King Features Syndicate does not come from New York either. They cover another motion picture column written by Skolsky, and Skolsky is also located in Hollywood and leaves his service with us.

Q. Do you know to what point you make remittance for that service?

A. To the New York offices. [36]

Q. Would the same be true with Ed. Sullivan's column on the Chicago Tribune and New York News? A. Yes, sir.

Mr. Sargent: That is, do you mean you pay New York or Chicago?

The Witness: We pay New York.

Q. (By Mr. Walsh) Now, in what form does this syndicated material come to you? Does it come in galley all ready set up, or is it mats?

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

A. Well, practically all of it would come in the form of a mat.

Q. In the form of a mat?

A. Cardboard mats from which we would make a cast.

Q. You just put that into the stereotype department and make your cast from that; is that right?

A. Yes, sir.

Q. And that, I suppose, is received by mail or express, is it not?

A. Yes, sir.

Q. Do you know the approximate proportion of syndicated material to the news? What I am trying to get at is this: about how many columns a day do you print of the syndicated material, and how many columns of news, and what is the ratio between the two?

A. I couldn't off-hand give you that. I have got a man here, [37] I think, that could.

Q. There is someone here who could?

A. Yes, I think he can.

Q. We will pass that over, and ask him later, then. Who is that?

A. Mr. Winn.

Q. All right. Some of these questions, I expect, he will be a little more familiar with. Will he also be able to give me the proportion of out-of-state news to local news?

A. No. He just deals with——

Q. I see. Could you give me that information?

A. No, I couldn't.

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

Q. As to the approximate number of columns of out-of-state news and——

A. I wouldn't dare give you that without——

Q. Without measuring the paper?

A. Without allowing the paper to speak for itself.

Q. All right. I was going to ask you to bring me a paper anyway so we can put in as an Exhibit.

A. All right.

Q. Can you give me, in general terms, the proportion of advertising to news in the Hollywood Citizen? What percentage of your paper is advertising?

A. Well, that varies to some extent. When you speak of the paper, you are speaking of the daily newspaper? The [38] Citizen-News?

Q. Yes.

A. I would say that varied from 30 to 40 per cent.

Q. Would it be higher in your job printing? That is, job printing doesn't make any difference to you, does it; that is, your Variety and your Shopper and the Hollywood Advertiser? I mean, you print that on a contract basis, do you not—all those other publications are printed on a contract basis?

A. The Hollywood Advertiser we own outright.

Q. You own that outright?

A. Yes. The Hollywood Shopping News is owned

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

by a separate corporation. The Hollywood Variety is owned by a separate corporation.

Q. The Hollywood Variety and Hollywood Shopping News are printed by you purely on a contract basis, are they not? A. Yes, sir.

Q. You are not interested in the success or failure of those particular ventures——

A. We are quite interested, yes, sir.

Q. You are interested in the case of a good customer going broke?

A. In the Hollywood Shopping News, the Citizen owns 44% of the stock of the Hollywood News.

Q. Do you have any control of the Hollywood Variety? A. No, sir. [39]

Q. That, then, is a job printing arrangement, is it not? A. Yes, sir.

Q. And the Hollywood Advertiser, the Hollywood Citizen-News is the proprietor of that concern, is it?

A. The Citizen-News Company is the proprietor.

Q. So you are really interested from the standpoint of ownership in two of those other publications, are you not? A. Yes, sir.

Q. Now, what is the proportion of news to advertising in the Hollywood Advertiser?

A. The Hollywood Advertiser—the goal of the Hollywood Advertiser is to be 100% advertising. Where there are holes, we will put in something,

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

but that is the purpose of the publication, to be 100% advertising.

Q. Could you tell me the percentage of local advertising and the percentage of advertising that is placed with you by National agencies, or agencies placing National advertising?

A. You are speaking now of——

Q. Of the Hollywood Advertiser. Would it be more convenient to take that up in another order?

A. I would have to bring a copy of the Hollywood Advertiser. There might be a very small amount of outside advertising in it, but the Hollywood Advertiser is largely the advertising of the large super-markets.

Q. It is mostly local? [40]

A. Yes, sir. Almost entirely local.

Q. How often do you bring that out?

A. Once a week.

Q. Now, the Shopping News is a weekly, is it?

A. It is weekly, yes, sir.

Q. Could you tell me the percentage of local advertising to advertising placed on a National basis?

A. Almost entirely local advertising in the Hollywood Shopping News.

Q. What is the percentage of advertising in the Hollywood Citizen—what is the percentage of local and percentage of National Advertising?

A. In inches I can't tell you, because I have never had——

Q. Well, what percentage of your revenue is de-

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

rived from local, and what percentage from National?

A. In the month of January—I have those figures before me—the out-of-state advertising was 5.51% of the total revenue of the Citizen-News Company.

Q. Does that include the circulation of the News?

A. Yes, sir.

Q. Do you have the figure as to what that would bear to the advertising revenues of the Hollywood Citizen-News?

A. A little over 10%

Mr. Sargent: That is, Judge, the out-of-state revenues are a little over 10% of the entire advertising revenues of [41] the paper at the present time, is that correct?

The Witness: A little over 10% of the classified revenues—of general revenues, all advertising revenues. That has no regard to the Shopping News or to any other publication, excepting advertising.

Mr. Sargent: Judge, what again does the 10%—the trifle over 10% indicate?

The Witness: That the revenue from advertising, from out-of-state, a little over 10% are revenues from advertising.

Mr. Sargent: That's right.

The Witness: From advertising.

Mr. Sargent: Yes.

Mr. Walsh: Yes. We weren't quite sure. I

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

think your first answer was a little conflicting and didn't quite reflect what you meant to say.

Q. (By Mr. Walsh) Now, the circulation of the Hollywood Advertiser, and the Hollywood Shopping News, are purely local circulation, are they not?

A. Yes, sir, with the exception of a few copies that might go into the mail.

Q. Now, will you tell us something about the purchase of supplies for your paper? I think we can probably clear up some of it rather quickly from the pleadings.

The Board alleges in its Complaint that you purchase newsprint, and you deny and say you purchase it in Canada. We also [42] say you purchase it in Canada; but does all of your newsprint come from Canada, Judge?

A. At the present time, we are getting newsprint from no source, but our contract for newsprint for this year is with the Canadian mills. There was an advance last year for increased prices, and we are liable to be buying from anybody for several months.

Q. Where were the mills located?

A. The company is the Powell River Company, and the mill, I believe, is on what is known as the Powell River in British Columbia.

Q. Does that come in through the United States

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

by rail, or by water? A. It comes by water.

Q. And where do you take delivery of it?

A. At San Pedro.

Q. You furnish your own means of transportation to your plant, I take it?

A. We contract with a trucking company to take delivery at the docks.

Q. How much newsprint did you use during your last fiscal year?

A. On all of our publications?

Q. Yes.

A. I can't give you that. I can get it for you, but I cannot [43] give it to you now.

Q. Well, would you get that for us?

A. Yes.

Q. Make it in the form of a letter, and we can put it in as an Exhibit.

A. You want that for all?

Q. Yes. Can you tell me for the Citizen-News, and then you can supplement—— A. No.

Q. I suppose you used this type and stock for your advertising newsprint?

A. Yes. You are speaking about newsprint. That is one thing; and paper stock is another.

Q. Yes.

A. All the newsprint that we buy is used in the Citizen-News, the Advertiser, the Shopping News, and several publications that—outside publications.

Q. The San Fernando Valley papers?

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

A. Yes.

Q. And things like that? A. Yes, sir..

Q. Can you tell me how much newsprint you consumed in your last annual accounting period; whether it was your calendar year or fiscal year, I don't mind?

A. No. I can get it, but I can't tell you at this time. [44]

Q. Could you tell me how much the Hollywood Citizen used?

A. No, sir. I can't give you that off-hand.

Q. All right, but you can supply that to us?

A. I can give you for one month. The month of January is the only one I have the figures for.

Q. How much did you use in January?

A. It is the only month in which I have the figure before me, and I can only give you that in dollars. I haven't the pounds.

Q. What is your best guess? Would you use five thousand tons a year?

A. You are speaking about the daily only?

Q. No; the whole consumption of newsprint?

A. All of our consumption?

Q. Yes. Would it run as high as five thousand tons?

A. No. I would say we would run nearer four thousand tons.

Q. Approximately four thousand? A. Yes.

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

Q. All right. If you will just write it out, and supplement your testimony by letter.

Now, what machinery purchases did you make during the last year?

Mr. Sargent: Do you mean during the calendar year 1937?

Mr. Walsh: The fiscal year or calendar year, I don't mind which it is. [45]

The Witness: We purchased two metal pots from the C. N. Kemp Manufacturing Company, Baltimore, Maryland.

We purchased a time recorder from Stromberg Electric Company at Chicago; a dolly truck from Chicago; minor tools totaling \$36.94 from the Ludlow people at Chicago; and \$25.00 worth from Springfield, New Jersey. We purchased through the Los Angeles office, which was shipped from New York, an Underwood-Elliott accounting machine, through the local office, which was shipped from Cleveland, Ohio, an addressograph machine. Through the local office, which was shipped from North Tonawanda, New York, a safe.

Mr. Sargent: Did you say those last two were purchased through the local offices?

The Witness: Through the local offices, but shipped from outside the State.

Q. (By Mr. Walsh) That is all the machinery you bought? What did you buy in the way of type metals?

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

A. Outside the State—I have no record of type metal from outside the State.

Q. What did you buy inside? How many pounds?

Mr. Sargent: May I ask this question: was your question, to which he gave the last answers, to all material purchased outside the State of California?

Mr. Walsh: I would like to have both.

The Witness: I was giving you outside the State. [46]

Q. (By Mr. Walsh) You were giving outside the State? A. Yes.

Q. Did you have machinery purchased inside?

Mr. Walsh: It might save some time, Mr. Sargent, if we put it in all at once.

The Witness: I will have to have a record made of that. I don't have a record of it with me.

Trial Examiner Lucas: I observe that it is 12:00 o'clock, gentlemen. Perhaps a recess at this time would give Mr. Palmer an opportunity to collect that data during recess.

Mr. Walsh: All right. Mr. Sargent has one question.

Mr. Sargent: In addition to those that you have listed as being purchased, did you purchase other equipment and machinery during the last year from within the State?

The Witness: I assume that we did.

Mr. Walsh: You can check that.

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

Trial Examiner Lucas: We will recess until 1:30 P. M.

(Thereupon, a recess was taken until 1:30 o'clock P. M.) [47]

After recess

(Whereupon, the hearing was resumed, pursuant to recess, at 1:30 o'clock P. M.)

Trial Examiner Lucas: The hearing will be in session. Please come to order.

HARLAN G. PALMER

the witness on the stand at the time of recess, resumed the stand, and was further examined and testified as follows:

Direct Examination

(Continued)

Q. (By Mr. Walsh) I hand you a document which has been marked for identification Board's Exhibit 2, and ask you if you will please identify that?

A. Yes, sir. That is a letter which I caused to be sent to Mr. Stewart Meacham, Field Examiner of the National Labor Relations Board.

Q. Which sets forth, I believe, in general, the various advertising accounts which you had in October of 1937? A. Yes, sir.

Q. Is your present advertising approximately

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

the same? Can you point out any accounts there that you do not have now?

A. Well, of course, National Advertisers might have a campaign one month of a year, and not a campaign in any other month during the year.

Q. The amounts will vary, I presume, will they not?

A. Yes. You will have on that list the auto manufacturers [48] who were doing advertising at that time. I couldn't say, without checking, but in a general way there has been very little auto advertising for the past two months.

Q. So that phase has dropped off quite a lot?

A. All that I could say is that this represented all of the different accounts in the month of October, 1937.

Mr. Walsh: I would like to offer that.

Trial Examiner Lucas: Any objection, Mr. Sargent?

Mr. Sargent: Your Honor, I don't want to, from time to time, make useless or unnecessary objections. I simply want to make the objection now that it is the position of the paper that the actual advertising in the paper of certain companies who are without the State, is not in and of itself being engaged in anyway in interstate commerce, and while I didn't this morning state any objection with regard to materials, as to newsprint, supplies and machines, it is the position of respondent, while the

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

information is available to the Board, that by not objecting, we don't want to be deemed as consenting that it is interstate commerce.

So far as the information contained in this Board's Exhibit 2 for Identification, I assume it is an accurate list of the advertisers for November 11, 1937——

The Witness: For the month of October.

Mr. Sargent: For the month of October, 1937. In view of the fact that the Judge has now testified that one big group [49] here, the autos, have not been doing any great amount of advertising the last couple of months, I would suggest that it wouldn't take much longer for Mr. Walsh to find out which ones are not now advertising.

I simply don't want to agree to something that doesn't represent the present status, and also, I don't want it to be deemed on our part that the mere advertising in this paper is engaging in interstate commerce.

Trial Examiner Lucas: I think I understand your position.

Mr. Walsh: It is admitted in the answer, your Honor, that——

Trial Examiner Lucas: Yes. If the remarks of Mr. Sargent are considered as an objection, I will overrule the objection, and the Exhibit will be received in evidence.

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

Mr. Sargent: I understand, your Honor, that I need not except each time to your ruling?

Trial Examiner Lucas: That is right, yes.

(Thereupon, the document above referred to was received in evidence and marked as Board's Exhibit Number 2.)

BOARD'S EXHIBIT No. 2

Hollywood Citizen-News
1545 North Wilcox Avenue
Hollywood, California

Hollywood 1234

November 11, 1937

Stewart Meacham, Field Examiner,
National Labor Relations Board,
745 Pacific Electric Bldg.,
Los Angeles, California.

Dear Sir:

In reply to your request for information we submit the following:

Out-of-state subscribers to the Hollywood Citizen-News number about 125 out of a total circulation of 27,600.

General advertising in the Hollywood Citizen-News during the month of October included the following accounts:

AUTOS—Buick, Cadillac, Chevrolet, Chrysler, Dodge, Ford, Lincoln-Zephyr, G. M. Corp.,

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

Graham, Hudson, LaSalle, Nash, Olds, Packard,
Plymouth, Pontiac, Studebaker, Willys.

OILS—GREASES—Shell, Standard, Texaco.

TIRES—Firestone, Goodyear.

FOODS—Pillsbury Flour, Baker's Cocoa,
Martinelli Cider, Welch Grape Jce, Shredded
Wheat, Whole Bran Shreds, Best Foods May.,
Star Olive Oil, Tobasco Sauce, Shefford Cheese,
Armour & Co., Cudahys, B&M Beans, Crisco,
Cudahy Shortening, Eatmore Cranberries,
Highland Syrup, Log Cabin Syrup, Nucoa,
Spry, Vegeroni, Wilson Margarine.

SOAPS—CLEANSERS—Dreft, Old Dutch,
Oxydol.

MEDICAL—Bayer Aspirin, Bell Ans, Blue
Seal Vas., Bukets, Capudine, Carter Pills, Creomulsion, Cystex, Doan Pills, F. M. Haarlem Oil, Groves Bromo-Q., Kruschen, Marmola, Mentholatum, Midol, Ostrex, Phillips Milk of Mag., Lydia Pinkham, Resinol, Scholl Mfg., 666, Stera-Kleen, Vicks, Witol Wafers.

MISCELLANEOUS—Glovers Dog Med.,
Milk Bone.

TOBACCO—Camel, Chesterfield, Prince Albert.

TOILETTE—Camay, Drene, Lux.

TRANSPORTATION—Santa Fe, Southern Pacific, Union Pacific, American Airlines, Pa-

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

cific Greyhound, T.W.A., Western Air Express,
East Asiatic, Grace Line.

Yours very truly,

HARLAN G. PALMER

HGP/T

Q. (By Mr. Walsh) All of the automobile accounts have slowed down in the last two or three months, I imagine, haven't they, Judge?

A. Yes.

Q. I presume you had a little extra advertising this week on account of its being National Used Car Exchange Week, did [50] you not?

A. I hope so, but we haven't had yet.

Q. You haven't had it yet?

A. I haven't had a report yet, but I hope so.

Q. Now, in what manner is your out-of-state—when I refer to out-of-state, I refer to those accounts which are contained in this Board's Exhibit 2—how are those ads placed with you?

A. They are placed with our representative, John W. Cullen Company.

Q. The John W. Cullen Company acts as your National advertising agent; is that right?

A. Representative.

Q. As your National advertising representative?

A. Yes.

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

Q. And they procure advertising which they place in your paper, along with other publications, for their various accounts, is that right?

A. Yes, sir. They represent a number of newspapers, possibly forty newspapers.

Q. I see. Now, the remittances from the persons for whom you run these adds come to you in what way?

A. Comes from the advertising agency which places the account.

Q. For instance, the John W. Cullen representative has nothing to do with the collection of the money, do they? [51]

A. Not unless an account is bad, then we ask their assistance in getting the money. If the agency pays promptly, there is no service that they need to perform.

Q. So there is really four steps in the placing of advertising in your paper; that is, from the actual advertiser to its agency, and from that agency to Cullen, and then comes Cullen to yourself. Is that the way it comes in the placing of the ad?

A. In the placing of the ad, the first step, as you mentioned, might be a little confusing. Of course, the advertiser arranges with an agency to handle his appropriation. The agency plans the campaign. If our newspaper is included in that campaign, with few exceptions the order for advertising is placed through their representative.

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

Q. I see.

A. In whatever office the agency might be located that was placing the account.

Q. Then your arrangement, I presume, with Cullen, is strictly a commercial account, is it not?

A. Yes, sir.

Q. Now, are all of the accounts contained in Board's Exhibit 2 handled by the Cullen Company?

A. There is a possibility that some of them are not.

Q. Some might come direct?

A. Some might come direct, and some of them might have come [52] through his former representative that we had, with offices in San Francisco.

Q. Who is that, West?

A. No. That is Fenger Hall. At the present time, however, the John W. Cullen Company represents us in all the National advertising fields.

Q. Now, where is the headquarters of John W. Cullen Company? A. In Chicago, Illinois.

Q. Do they maintain branch offices in other cities?

A. They maintain an office in New York City, in Detroit, Michigan, and at the present time recently opened an office in Los Angeles, and an office in San Francisco.

(Discussion outside the record.)

Mr. Walsh: You may inquire.

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

If the Examiner please, there is certain information that Judge Palmer is getting for us that is not available at this time, and we will pick that up later.

Trial Examiner Lucas: Very well.

Cross Examination

Q. (By Mr. Sargent) Judge Palmer, at the present time, if advertising on behalf of some National advertising concern comes into the columns of your paper, how does it get there?

A. The general practice is for the agency which is handling the particular account to send a copy for the advertisement, or more likely the matrix of the advertisement, together with [53] an order for that advertising, to the office of our representative, who in turn sends the order and a copy to us.

Q. And at the present time, with which office of John W. Cullen Company are you doing business?

A. The central office is in Chicago, but if an automobile concern, for instance, was placing an advertisement, the probable procedure would be that the copy would come out of the City of Detroit direct to us.

Q. That is, at the present time the local office is not sufficiently developed so that it would come through the Los Angeles office? Is that right?

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

A. At the present time, if any advertising account was placed with the local office, it would come directly to our office from the local office.

Q. And a portion of your accounts come through the local John W. Cullen office, and some come through the Chicago office, is that right?

A. Yes, sir.

Q. How long has the Los Angeles office of the John W. Cullen Company been established, if you know?

A. Well, about three months only, I believe. I am unable to fix that date exactly.

Q. And if you know, is the purpose of the John W. Cullen Company to eventually have the Los Angeles and San Francisco offices take over the various contracts with the newspapers in [54] California?

A. No, sir, and possibly yes, sir. But if I understand your meaning, the purpose of the office of John W. Cullen Company in Los Angeles is to keep the contacts with advertising agencies in the Los Angeles area. The purpose of the office in San Francisco is to keep the contacts with advertising agencies in the San Francisco area; to watch any advertising accounts that might originate in those respective areas, and see to it that our newspaper

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

is called to the attention of the agency; that any service that the agency desires can be rendered to them by contact with the local office.

Q. Would your dealings regarding National accounts go through John W. Cullen Company, but with the Los Angeles office, or with one of the Eastern offices?

A. If the account originated in Detroit, the order would be sent to us from Detroit. If the account originated in San Francisco, the order would be sent to us from San Francisco. When it comes time to pay the representative, a pay check is sent to Chicago.

Q. Now, as to whether this condition of the business may be changed as the office here grows, you are not informed?

A. No, sir, I am not informed.

Q. Now, you mentioned a moment ago that John W. Cullen Company had nothing to do with the accounts, unless the account was bad, meaning that you weren't paid for the advertising, is [55] that correct?

A. I said, nothing to do with the collection.

Q. With the collection of the account?

A. Yes.

Q. Suppose you had a National advertising account on which the payment was slow, or apparently was uncollectible, then what would you do?

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

A. Well, if we thought that a personal contact with the agency would be of value to us, we would ask our representative to make that contact.

Q. And at the present time that would be made back East, or would it be made here in Los Angeles, or San Francisco?

A. It would depend entirely on the facts and conditions involved. If our credit manager believed that the office of the John W. Cullen Company in Chicago could be of assistance to him, he would make his appeal directly to the Chicago office. If he felt that the letter from the San Francisco office could be of assistance, he would make his appeal to whichever office he chose.

Q. Now, towards the close of this morning's testimony, you stated, did you not, that you purchased certain materials or machinery outside of the State. You didn't at that time attempt to give the amount of machinery and materials purchased within the State, did you? A. No, sir. [56]

Q. And that you are going to do when you get the figures; when they are brought to you, is that right? A. Yes, sir.

Q. Now, as to the two large items, the two metal—— A. Metal pots.

Q. Metal pots, and the time recorder—the two metal pots from C. N. Kemp, or Baltimore, Maryland, how were those ordered?

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

A. Well, they were ordered from a California representative of the Company. I think the representative is located in San Francisco.

Q. And to whom did you make the payment?

A. To the San Francisco office of the representative.

Q. So that the order was actually placed within the State of California, and after the machinery was received, payment was made within the State of California, is that correct?

A. Yes, sir. Shipment was made from the place that I gave this morning. I don't remember; I haven't that list, but I think it was Baltimore.

Q. Is it true with regard to other things that when you make a purchase outside of the State you frequently order them locally, and pay the representative of those concerns?

A. I tried in my testimony to indicate that plainly, with reference to some office machinery: an addressograph, a bookkeeping machine and a safe, that they were bought locally, [57] but shipment was made from out of state.

Q. And also, payment was made locally in those cases, as you recall?

A. I believe it was, but I dare not so testify.

Q. With regard to newsprint, you estimated that the total consumption used by you on the Citizen-News and the other papers was in the neighborhood of four thousand tons per month?

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

Mr. Walsh: A year.

The Witness: No; a year.

Q. (By Mr. Sargent) Per year. Is that correct?

A. Yes, I think it is running about 350 ton a month. We have sent for the total tonnage consumed last year.

Q. Did you purchase any newsprint this last year from Sweden? A. None from Sweden.

Q. At what place did you make payment for the newsprint which you purchased from Canada?

A. Payment is made for the Canadian paper to Blake, Moffitt and Towne in Los Angeles. Payment is made to Blake, Moffitt and Towne.

Q. Blake, Moffitt and——

A. And Towne, T-o-w-n-e.

Q. At the time your answer was being prepared, did you make an estimate as to the proportion of cost represented by the [58] machinery or supplies purchased outside the State?

A. In relation to the total investment of machinery.

Q. I thought it was the total operating cost of the Company. Wasn't it the total operating cost of the Company?

A. The machinery, Mr. Sargent, would most likely be charged to investment, not an operating cost.

Q. Did you make such a cost analysis, and if so, what did you find?

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

A. Yes, sir, I made it. I notice our answer states that the equipment, machines and supplies constitutes in the aggregate less than two percent of the total operating expenses of said newspaper. That should read two percent of the investment of said newspaper and equipment.

Q. You desire to make that correction at the present time in your answer? A. Yes, sir.

Mr. Walsh: It is so stipulated.

Trial Examiner Lucas: How do you want that to read, Mr. Sargent?

Mr. Sargent: I take it, from what the Judge says, that the two percent, representing equipment, machines and supplies purchased outside the State of California, is less than two percent of the total investment.

The Witness: The total investment of machinery——

Q. (By Mr. Sargent) That is, what is inventoried at the [59] present time, is that correct?

A. Yes, sir, that is correct.

Q. Now, then, did you make a computation, Judge, as to what the proportion was—the total cost of newsprint in any given year and the total cost——

A. An estimate was made as to the cost of the newsprint used in the month of January on the daily newspaper, the Hollywood Citizen-News.

Q. Yes.

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

A. The percentage of the cost of the newsprint to the total expense of the Hollywood Citizen-News publication figured 10.24 percent.

Q. That is the newsprint used during the month of January—— A. 1938.

Q. January, 1938? A. Yes.

Q. That represented 10.24 percent of the total expense of the paper for that month, is that right?

A. Yes, sir.

Q. And did you make any computation with regard to the proportion between the cost of newsprint and all the publications of the Hollywood Citizen-News? I don't know that you did.

Under the circumstances, this is applicable only to the Citizen-News, is that correct? [60]

A. That is correct. I seem to have no figures on it.

Mr. Walsh: May I ask one question?

Mr. Sargent: Yes.

Mr. Walsh: Was January, 1938 a representative month in your business? Would it be about an average month?

The Witness: Possibly a little under the average, if we took the average for the year. Of course, I don't know what the average for this year is going to be. Normally, January is one of the good months of the year, but the average is a little under what it would be for the last year.

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

Mr. Walsh: All right.

Q. (By Mr. Sargent) Judge, have you any idea as to the percentage of newsprint used in the Citizen-News as compared with the newsprint used in all of the publications of the Corporation?

A. Yes. I could give you that figure as to percentage.

Q. Yes.

A. Of the total expense of operating our printing activities, newsprint would run a little less than 20%. If we print a publication like a big circular, newsprint is a very large part in a circular.

Q. Judge, if your newsprint represents about 10-1/4 per cent for the Citizen-News, would the newsprint represent a larger or a smaller figure in comparison, if you take into consideration all of the papers you print? [61]

A. A percentage——

Q. It would be about the same?

A. No, larger.

Q. It would be larger? A. Yes.

Q. So that it is 20% as to all of them taken together, and about 10-1/4%——

A. As to the daily alone.

Q. As to the daily alone? A. Yes.

Q. And the daily alone is the only publication which has, so far as you know, any place outside the State, is that right?

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

A. Yes, sir, excepting as to what individuals, for whom we might print a publication, might do.

Mr. Walsh: For instance, if Variety wanted to send copies to New York, that would be their own business?

The Witness: Yes. Variety doesn't use newsprint, however.

Mr. Walsh: They don't?

The Witness: But they furnish their own stock.

Mr. Walsh: I see.

Q. (By Mr. Sargent) But other than the Citizen-News, those others are for consumption and circulation practically entirely within the State of California? [62]

A. Yes, sir.

Q. Does the figure of 125 copies, which you said was the figure back here on November 11, I believe, for October—does that represent the average number of copies of the Citizen-News going outside the State?

A. I would say it probably does, quite accurately. The number is so small that, of course, a variation of five copies might be considerable, but the 125 copies which are referred to in the letter of November 11th, 1937 appears to coincide with a check that I made at the time we were preparing the answer, and at that time we counted 125 outside of the State—

Q. And for what date was the latter?

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

A. But there can easily be a variance there of four or five copies.

Q. When you were getting the information for the answer, what number did you find there?

A. One hundred and twenty-five.

Q. And that was for a date in January, wasn't it?

A. No, that was for a date in February.

Q. February, 1938?

A. Yes, sir. I have the January circulation before me on the News.

Q. All right. Let's have it.

A. Paid circulation out-of-state for January, 104. Paid circulation in the State, 27,797. [63]

Mr. Walsh: I didn't get that last.

The Witness: 27,797. Revenue on out-of-state, \$76.27, for the month of January, 1938. In the State, \$10,898.83.

Q. (By Mr. Sargent) Have you computed what proportion those two bear to each other in percentages?

A. Well, 104 is still less than one-half of one percent of the total circulation.

Mr. Walsh: In fact, it is about one-third of one percent.

The Witness: Ninety *would about* one-third of one percent. It is more than one-third and less than one-half of one percent. Now, as to the total revenues, I have made a computation——

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

Q. (By Mr. Sargent) It is seven-tenths of one percent, approximately?

A. The total circulation revenue is approximately seven-tenths of one percent, and of the total revenues, one-tenth of one percent.

Q. That is, the one-tenth of one percent takes into consideration all of the other business which is being done, besides the Citizen-News?

A. Yes. The total revenue, yes.

Q. Did you say on direct examination that for January, the out-of-state National advertising revenue was 5.51 of the total revenue of the paper for that period?

A. That is the total revenue of the business; not of the paper. [64]

Q. And that the advertising revenue from out-of-state was approximately 10% of all advertising revenues?

A. Yes, sir.

(Discussion outside the record.)

Q. You had better state it again.

Trial Examiner Lucas: Yes. If there is going to be any uncertainty about it, let Mr. Palmer state it again for the record.

The Witness: The advertising revenue on out-of-state advertising for the month of January, 1938, was 5.51 per cent of the total revenue of the Citizen-News—all publication activities—the total revenues of advertising from out of the State in the month

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

of January, 1938, was approximately 10% of the total revenue from advertising in the *Citizen-News* daily, and the *Advertiser*. Those two were placed together because they are sold together.

Q. Now, with regard to syndicated articles—the news features of the Associated Press and United Press—how is the order for those made?

A. You are asking now with reference to syndicated articles?

Q. Yes, that is right.

A. We buy no syndicated matter from the United Press.

Q. I see. Apart from the United Press—

A. How is the order placed?

Q. Yes. [65]

A. Well, almost always with the salesman who calls upon us for these various Syndicates.

Q. So that, as a matter of fact, the order is placed in the hands of the salesman who calls upon you in the State of California, is that correct?

A. Not always, but generally.

Q. Generally? A. Yes, sir.

Mr. Sargent: I understand, Mr. Walsh, you are going to ask Judge Palmer some more questions, and I will reserve any further cross examination until that time, and I will also reserve until that time a motion which I would like to *make regard* to the interstate commerce feature of the case.

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

Mr. Walsh: All right. There is one other thing I think we ought to clear up at this point.

Redirect Examination

Q. (By Mr. Walsh) Will you explain the term "matrix?"

A. Yes. A matrix is an impression or mould. When the term "matrix" is used in connection with an advertisement, it means that it is the mould taken in a special cardboard preparation of the original advertisements, set in type and cuts and illustrations.

The mould is then sent to—when received is sent to the stereotype department where a cast is made in metal from that mould, reproducing in effect the original advertisement [66] from which the matrix or mould was made.

Q. Now, you stated, if I have got the figures correct, that the out-of-state advertising for the month of January, 1938, accounted for 10% of the total advertising revenues of the Citizen-News, and the Hollywood Advertiser, is that correct?

A. That's right.

Q. Can you tell me approximately how much of that 10% is derived from National advertising appearing in the Hollywood Advertiser?

A. No, but practically all the National advertising revenue comes from the daily Citizen-News.

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

Q. I thought this morning we found out that the Advertiser was mostly local merchants?

A. Yes, sir.

Q. Now, you stated, I believe, that the Hollywood Variety furnishes its own stock upon which its paper is printed? A. That's right.

Q. What kind of stock is that?

A. That is a coated book stock.

Q. Smooth finished paper?

A. Smooth finished paper.

Q. They buy their own paper and deliver it to you for use in publishing that paper?

A. Yes, sir. [67]

Mr. Walsh: I will defer further examination of Judge Palmer until he has been able to furnish us the rest of the——

Trial Examiner Lucas: May I ask a couple of questions?

Mr. Walsh: Yes.

Examination by the Trial Examiner

Q. (By Trial Examiner Lucas) Judge Palmer, your membership in the Associated Press—does that entitle you to a specified amount of its service?

A. No, sir. We can subscribe for any percentage of the service that we are willing to pay for. It entitles us to receive all the service that they might offer if we are in turn willing to pay for all the service that they might offer.

[Excerpts from Case No. XXI-C-606.]

(Testimony of Harlan G. Palmer.)

Q. That is what I wanted to bring out. The mere fact that you are a member of the Associated Press doesn't entitle you to use any of their service at all unless you desire to pay for it?

A. That is correct.

Q. Nothing is given you by reason of your membership? A. No, sir.

Mr. Walsh: The same as a membership in a club, for instance. If you go to your club, you can use all the facilities of your club, but you have to sign a check for it.

The Witness: Yes, sir, and pay your dues in addition. In the Associated Press, we don't pay dues, but we do pay for the service. [68]

Mr. Walsh: All right. That is all.

Trial Examiner Lucas: That is all, Judge.

Mr. Sargent: It is understood, your Honor, that I might, without prejudice, delay my motion until the completion of the testimony with respect to it, so that we will have all the data before us upon the interstate commerce question, when the motion is made?

Trial Examiner Lucas: Yes, of course.

Mr. Sargent: And that will not be deemed to be a waiver of that motion?

Trial Examiner Lucas: That is right. That will be the order. [69]

[Excerpts from Case No. XXI-C-606.]

Mr. Walsh: With the exception, your Honor, of measuring up the newspaper that we talked about the other day, and putting that in as an exhibit, and straightening out this Board's Exhibit 19, I am ready to rest my case, and with those reservations I will rest.

Mr. Sargent: You want some information as to the size and contents of the paper, Mr. Walsh?

Mr. Walsh: Yes.

Mr. Sargent: The Judge has figured, I believe for the week of February 21, 1938, to February 26, 1938, so you might want to recall him.

Mr. Walsh: Would you prefer to read it from there, Judge?

I had requested Judge Palmer to give me certain data on a current week of the publications, as the exhibits that we had were the ones which were current for those days, and they happen to be a little out of proportion owing to the flood disaster we had here, so Judge Palmer has taken the week, or the days from February 21 to February 26, which would cover a week's publication of the Hollywood Citizen-News, [959] and will you just read that?

Trial Examiner Lucas: Is this the current year?

Mr. Walsh: 1937.

Trial Examiner Lucas: '37?

Mr. Walsh: '38. I beg your pardon.

Mr. Palmer: The total number of pages of composition set in the composing room, figured on the

[Excerpts from Case No. XXI-C-606.]

basis of a newspaper page, or its equivalent, was 206-2/3. Of the 206-2/3 pages of composition, the Citizen-News, that is the daily paper, had 108; other publications 84; Variety, which is a smaller paper, was figured on the basis of the large page, had 14-2/3 pages.

Of the Citizen-News, 108 pages, reduced to columns at the rate of eight columns per page, making 864 columns for the 108 pages run that week, and of the 864 columns, 569 columns were reading matter, 295 columns were advertising matter.

Of the reading matter of 569 columns, local and state news constituted 351-1/4 columns; out-of-state news 121 columns, syndicate matter 96-3/4 columns. In figuring the columns of news, in order that the columns might check out, the head was also figured in—the caption was also figured in.

In the composing room that week, total hours of composition were 1842-3/10, of which 958-2/10 was on the daily, [960] 182 hours was on Variety and 702-1/10 was on other commercial work.

This does not cover the composition in the job department, but covers composition only in the composing room of the newspaper department.

The figures on the press work did not justify, so I am eliminating those, not having been asked for them.

Mr. Walsh: All right.

Judge, you say your first figure is so many pages of newspaper?

[Excerpts from Case No. XXI-C-606.]

Mr. Palmer: Yes, 206-2/3 pages of composition.

Mr. Walsh: Will you tell us how large a newspaper page is?

Mr. Palmer: A newspaper page consists of—or a newspaper consists of eight columns, 12 ems to a column, which is measured out two inches wide, net, without the column rules for the reading matter, and the length of a column is 21-1/2—21 inches in the printed page.

Mr. Walsh: I wanted to get that in the record. Some newspaper pages are larger than others. I think that is all right, and that is clear enough for our purposes.

Mr. Sargent: May I talk to the Judge for a minute?

Trial Examiner Lucas: Certainly, Mr. Sargent.

(Conference between counsel.)

Mr. Sargent: Judge Palmer, with regard to the figures [961] which you have just testified, let me ask you which of the publications, then the daily newspaper, is for circulation within the state and what for circulation or use without the state?

Mr. Palmer: As far as we are concerned all publications are local. We deliver them to local people and they are printed for the people.

Mr. Sargent: So that delivery——

Mr. Palmer (Interrupting): Yes, they are delivered, they deliver the jobs to other people.

Mr. Sargent: Delivery is made with regard to all

[Excerpts from Case No. XXI-C-606.]

these other publications within the state by you, and payment is made within the state?

Mr. Palmer: Yes, sir.

Mr. Sargent: And so far as the out-of-state circulation is concerned, it will be limited to that small number of newspapers of less than 125—125 or less of the total circulation of the daily Hollywood Citizen-News, is that correct?

Mr. Palmer: Yes, sir.

Mr. Sargent: So that of all of the volume of these various publications, the percentage of which is sent by you into interstate channels, is materially and considerably less than even the small percentage of the daily paper which is sent by you in interstate commerce?

Mr. Palmer: Yes, much less. [962]

Mr. Walsh: Judge, how many copies of Variety do you print a day?

Mr. Palmer: About 4,000, Mr. Winn tells me.

Mr. Walsh: Do you do any mailing for Variety?

Mr. Palmer: No, none whatsoever.

Mr. Walsh: You perform no other service for Variety except to print it?

Mr. Palmer: The composition and the press work and the binder, what we call a binding and stamping and they furnish their own paper.

Mr. Walsh: I believe that is in the record.

And then do I understand that you just deliver that back to their shop or plant or office?

[Excerpts from Case No. XXI-C-606.]

Mr. Winn: They pick it up.

Mr. Walsh: They pick it up. Do you know what percentage of *Variety* is sent out of the state?

Mr. Palmer: I haven't any idea.

Mr. Walsh: That is not something you know anything about?

Mr. Palmer: No, sir.

Mr. Walsh: That is right.

Trial Examiner Lucas: Did I understand your question to mean "daily" to Judge Palmer, how many copies of *Variety* you printed daily?

Mr. Walsh: Yes, that is what I mean, and I believe—— [963]

Mr. Palmer (Interrupting): It is a uniform number of copies each day. That is, their circulation varies, of course, and we would change it, but approximately the same figure six days a week publication.

Mr. Walsh: That is all. [964]

Mr. Persinger: Mr. Johnson.

ROGER C. JOHNSON

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined, and testified as follows:

Direct Examination

Q. (By Mr. Persinger) Mr. Johnson, did you formerly work for the *Hollywood Citizen News*?

A. I did.

(Testimony of Roger C. Johnson.)

Q. About how long did you work there?

A. Slightly more than three years.

Q. And when did you stop work?

A. On May 14, 1938.

Q. You are a member of the Guild?

A. Yes, sir.

Q. You were employed in the editorial department of the newspaper? A. Yes, sir.

Q. Will you explain why the Guild, in requesting that the appropriate bargaining unit be the employees in the editorial department exclusive of three particular editors, chose to exclude, for example, Mr. Swisher, the managing editor? What is the reason for that exclusion?

A. Under the Guild constitution, the unit is permitted to exclude persons closer to the management than to the Guild members, usually persons in authority, sometimes with the power to hire and fire. [7]

Q. And does Mr. Swisher have authority over the editorial department?

A. He does; he is the managing editor.

Q. He is the boss of the department?

A. That is correct.

Q. Why was Mr. Harold Hubbard excluded?

A. His interests were deemed closer to the management than with the Guild members.

Q. Does he act in a supervisory capacity over the entire editorial department?

(Testimony of Roger C. Johnson.)

A. Under Mr. Swisher.

Q. And why was Miss Zuma Palmer excluded?

A. Because she is a sister of Judge Palmer; therefore, her interests would naturally lie more closely to him. [8]

Q. And did the editorial department of the Hollywood Citizen-News form a unit within the Los Angeles Guild? A. Yes, it did.

Q. And that is what is customarily known as the C. N. unit, or the Citizen-News unit?

A. That is correct.

Q. As distinguished from the Guild which is used to designate the Los Angeles Newspaper Guild?

A. Yes, sir.

Q. What is the usual term for the American Newspaper Guild in common parlance? How do you distinguish that from the Los Angeles Guild?

A. Either the American Newspaper Guild or the International Executive Board.

Mr. McWilliams: Mr. Examiner, I would like to note my appearance on behalf of the Los Angeles Newspaper Guild. My name is Carey McWilliams.

Trial Examiner Kennedy: The reporter will so note.

Q. (By Mr. Persinger) Will you explain, Mr. Johnson, how negotiating committees are set up, whether they are set up on the basis of the unit or on the basis of the Los Angeles Guild? [9]

(Testimony of Roger C. Johnson.)

A. When a unit decides to negotiate with the publisher, the unit asks the Los Angeles Guild executive board to select negotiators who negotiate the contract. The common practice has been for the unit unofficially to make suggestions as to who the negotiators should be, and in all cases the executive board has followed those recommendations in selecting negotiators. [10]

In June of 1936 a group of about eight of us in the editorial department felt that we should go to the judge as a group and present to him our ideas about wages and other working conditions. That was prior to the formation of the Los Angeles Newspaper Guild.

Mr. Sargent: I object to what the group felt. I have no [16] objection to the witness telling what he felt.

The Witness: I felt all of the things I mentioned for the group.

Mr. Sargent: I ask that what the group felt go out.

Trial Examiner Kennedy: It will be stricken.

The Witness: We asked for a conference with— first of all we drew up a statement to Judge Palmer stating our various feelings, and we went in later to present our attitude individually instead of as a group. The result was that we had very fine conversations with Judge Palmer, but we didn't accomplish what we had set out to accomplish. We felt that— [17]

(Testimony of Roger C. Johnson.)

Q. When was the Guild first organized?

A. In September, 1936.

Q. Did you have anything to do with its organization originally?

A. Yes, sir; I was one of the founders of the organization.

Q. Will you tell us how it happened to be organized, and what progress was made in its organization, and what offices [19] you held, if any.

A. Well, newspaper men in Los Angeles came to me and I had talked with them frequently about the need for bettering our conditions and bettering journalism as a whole. We felt—that is, I felt that we as individuals could not make the progress that we should. Therefore, the Guild was formed. I was the first in Los Angeles to take out an application card and pay dues.

Mr. Sargent: If the Court please, I have no objection because this hasn't any bearing upon the present situation; but I ask that with regard to labor matters he limit his testimony to those things which were said or which were done by either Judge Palmer or some member of the staff of respondent. We have admitted that the Guild is a labor organization. I don't believe any history about what took place prior to that has any bearing on this case.

Mr. Persinger: If the Examiner please, the background of this witness's relationships with the company and his activities in the Guild are very essential to the case. In order to intelligently ap-

(Testimony of Roger C. Johnson.)

praise those, it is necessary to know something of the history of the Guild organization, not to any great extent, but certainly the fact that he was one of the original organizers of the Guild. I want to know what office he held in the Guild, how long he held that office, and I also wish to find from this witness what his personal relations with [20] Respondent were after he became active in the Guild, all of which I think is essential.

Trial Examiner Kennedy: Those matters are material and they are essential. I think Mr. Sargent is objecting more to the nature of the testimony of the witness.

Mr. Sargent: That is true. We have no objection.

Trial Examiner Kennedy: Not the subject matter.

Mr. Sargent: We have no objection to his giving testimony as to what his relationships were at any time with Judge Palmer or the Respondent.

The Witness: May I proceed?

Trial Examiner Kennedy: I think you may because I believe you are still answering a question. So proceed.

Q. (By Mr. Persinger) The Guild, you say, was organized originally in September?

A. Yes, sir.

Q. Was it put on a permanent basis at that time, or was it just a temporary set-up?

A. It was a temporary set-up at that time. It

(Testimony of Roger C. Johnson.)

wasn't chartered until a number of months later, and permanent officers were not elected for a few months.

Q. Were temporary officers elected?

A. Yes, sir, they were.

Q. Did you hold any temporary office?

A. I was one of the first temporary presidents. They changed; [21] our first president left town on another job.

Q. When permanent officers were elected, did you hold any office?

A. Yes; I was the first newly elected president.

Q. That was in September that the Guild was started?

A. The Guild was actually started in September and began to grow from then on.

Q. And this campaign of Judge Palmer's of which you spoke concluded in the November election; is that correct?

A. Yes, sir. During the campaign I was invited at one time by the managing editor, Mr. Swisher, to speak on the radio from my desk during the period of broadcasts that the Citizen News had for about a week. He asked if I would mind being introduced as the Guild president. I said no, although I was rather surprised, because that had never been done before, and I felt a great feeling of warmth because of it.

He also asked me if I would mind talking about the Guild and explain its objectives briefly when I

(Testimony of Roger C. Johnson.)

was on the air. I said, "No, no; I would be glad to do that."

Q. Did you do that?

A. Yes, sir, I did. The Christian Science Monitor later carried a story on that to the effect that it never had been done before in labor history.

May I divert to say that a campaign publication put out for Judge Palmer at the same time carried a story about my [22] connection with the Guild.

Q. When did you become the first regular president of the Guild?

A. I have forgotten the exact date. It was either late in 1936—I believe it was January, 1937. We changed the constitution or by-laws a couple of times.

Q. January, 1937? A. Yes.

Q. When was the unit of the Hollywood Citizen News organized?

A. That was organized almost a month or so after the Guild was formed, about October, I would say, 1936.

Q. Will you continue your personal relations with the Respondent from where you left off at the close of the campaign for District Attorney?

A. Well, the next conversation that I had concerning the Guild at all was late in 1936, in December.

Mr. Sargent: I object to the answer as not being responsive to counsel's question.

(Testimony of Roger C. Johnson.)

Mr. Persinger: It may be, depending on the conversations that he had.

Trial Examiner Kennedy: Read the question and answer, Mr. Reporter.

(The question and answer referred to were read by the reporter, as set forth above.) [23]

Trial Examiner Kennedy: I don't believe the answer is responsive.

Mr. Persinger: I don't think the answer was complete enough to tell. You don't know with whom the conversation was or what it was about.

Trial Examiner Kennedy: With whom was that conversation?

The Witness: Judge Palmer.

Trial Examiner Kennedy: Proceed.

The Witness: In late December I met Harwood Young, the business manager of the Citizen News, on the stairway one Saturday afternoon as I was leaving. He asked me if I could get for him some information about wage schedules and other working conditions which had been put into effect on the four downtown papers about a month before. I told him that I could obtain that information. I didn't happen to have it with me.

I said, "I presume you want this information for the regular salary adjustments which take place in January and July."

And I obtained the information for him, leaving the office and coming back with it. He had told me that he would be in Judge Palmer's office. I went

(Testimony of Roger C. Johnson.)

to Judge Palmer's office, knocked on the door, and told him that I had the information.

Judge Palmer heard that I was at the door and invited me to come in. I presented the information to both of them. Then we—meaning Mr. Young, Judge Palmer, and I—sat down for [24] about an hour and a half's discussion of my reasons for being active in the Guild. I believe I volunteered the information. I explained that I was in the Guild because I felt that newspaper men, acting as individuals, could not make the progress that they could by banding together. I explained that we were about the last of all professions to organize, whereas we should have organized the day before the publishers formed their Publishers Association.

I felt that lawyers were in their Bar Associations, which was in effect a union; that the Publishers Association was, in effect, a union; that doctors joined medical associations because those were in effect unions, although they didn't call them such, and I didn't see any reason why newspaper men could not band together, because they, too, were of a professional class.

I explained that the Guild had had a lot of difficulty in Santa Monica at the Santa Monica Outlook about a month before that when the publisher discharged a number of persons during what I termed a purge over one week-end because he had discovered some of his staff members had joined the Newspaper Guild.

(Testimony of Roger C. Johnson.)

I explained that one police reporter who had been discharged was being paid \$15 a week and had a wife to support on that; and that other members of the staff were being paid approximately \$20 a week; that their long hours, particularly [25] night assignments certainly justified more than that.

I laughed and pointed to Judge Palmer, and I said, "I don't blame you or any of the other publishers as individuals. I blame the system which has grown up in the newspaper business." And Mr. Young and Judge Palmer laughed heartily at that.

On the whole, it was a very splendid meeting, and I felt that if the judge and Mr. Young understood my position in the Guild that they would be sympathetic.

I believe that concludes 1936 for me, except I was given a raise in about the spring, about April or so in 19—no, this is 1935.

Trial Examiner Kennedy: Is there any objection, Mr. Persinger, to taking a short recess at this time?

Mr. Persinger: No; I think it would be a very good place to do it.

Trial Examiner Kennedy: We will take a recess for five or six minutes.

(At this point a short recess was taken, after which proceedings were resumed, as follows:)

Trial Examiner Kennedy: All right, gentlemen, are we ready to proceed?

(Testimony of Roger C. Johnson.)

Mr. Persinger: Yes.

Q. (By Mr. Persinger) Mr. Johnson, will you continue with your story of your relationships with the company? [26]

A. Well, there were one or two points that I neglected to mention in 1936. I just simply wanted to state my wage increases. One was in the spring of 1936, a \$6-raise from \$24 to \$30, one dollar of which was in cash, and \$5 of which applied to my obligation to the Citizen News management.

Q. Was that in '36 or '35?

A. '35, I beg your pardon. The other raise was about July 4 of that same year—I am not sure of the date. The point I was trying to bring out is that there were wage increases.

In connection with this conference I had with the judge about working conditions before the Guild started in June of 1936, after the conference I was keenly disappointed.

Mr. Sargent: I object to that mental reaction.

Trial Examiner Kennedy: It will be stricken.

The Witness: I went to Harwood Young, the business manager, and told him that I was disappointed that the conference with Judge Palmer had not resulted in more material good, and I said that the staff—that I felt many suggestions which were given to the management, mainly, to——

Mr. Sargent (Interrupting): I again object to the characterization of what the staff felt.

(Testimony of Roger C. Johnson.)

The Witness: I am giving my conversation with Mr. Young.

Trial Examiner Kennedy: The witness is giving his conversation.

Mr. Sargent: Is this latter statement what you also said [27] to Mr. Young at the time?

The Witness: Yes.

Mr. Sargent: I withdraw my objection.

The Witness: Will you read my answer as far as I have gone?

(The answer referred to was read by the reporter, as set forth above.)

The Witness (Continuing): —Harold E. Swisher, the managing editor, for the good of the paper, and to increase efficiency, were ignored, and during the conversation concerning the conference with Judge Palmer, Mr. Young stated that the judge was adverse to taking action under suggestions from pressure groups.

I made the remark that perhaps that was why I and the other members of the staff had been called in individually, and the suggestion about working conditions and wages were generally ignored.

Q. (By Mr. Persinger) I believe you left off about the beginning of 1937.

A. You want me to go ahead and give my own version of 1937?

Q. Your relations with the company and anything that happened.

(Testimony of Roger C. Johnson.)

A. I remember very specifically a happy occasion in January when my wages were increased to \$45, and in February of that year I was invited to go to the National Orange Show—I [28] believe the Orange Show is in February; anyway, it is early in the year each time—by Harold Swisher, the managing editor. I went with him in company with Harold Hubbard—I'm not sure whether Hubbard was there or not.

At the Orange Show, which was held in San Bernardino and where Mr. Swisher had previously worked on a newspaper, Mr. Swisher took great delight in introducing me to some of his friends in the newspaper business in San Bernardino and elsewhere, as president of the Los Angeles Newspaper Guild, and kidding them and telling them that perhaps soon I would be over in San Bernardino to organize, too.

In March of the year I was playing baseball one Sunday morning representing the Citizen News editorial staff against the composing room, and during a slide for home base, I broke my ankle. Judge Palmer had been playing in the field with us, and later when I heard from him, he mentioned that maybe I should have quit after the ninth inning when he did, and it would be safe for me there, too.

It was an exceedingly friendly baseball game, and we all were in good spirits in spite of my injury later.

(Testimony of Roger C. Johnson.)

At the hospital I had calls from Zuma Palmer, Judge Palmer's sister, Mrs. Harold Swisher, the managing editor's wife, Mr. C. D. Thompson, secretary to Judge Palmer. Mr. Thompson at the outset told me that Judge Palmer stood ready to help me financially at the hospital, and I thanked him and told him it [29] was being cared for in another way.

At one time after I got out of the hospital and was on crutches and cane—I can't remember the exact date—I was given an automobile ride by Zuma Palmer, and during the course of the ride—I may say that Zuma and I had on frequent occasions gone to various functions such as radio performances and so on and so forth—she mentioned to me about the Guild. We discussed the Guild, and she wondered if the Guild were so necessary on the Citizen News as it was on some other publications.

Mr. Sargent: I object to what she wondered unless she said so.

Trial Examiner Kennedy: Try and state what was said.

The Witness: I can't give the exact words. I can just give you the thought.

Trial Examiner Kennedy: If you cannot remember the exact words, give the substance as near as you can recollect.

The Witness: She said she wondered if the Guild was necessary on the Citizen News as it was on some other publications because of the fair treatment

(Testimony of Roger C. Johnson.)

Judge Palmer had always tried to accord the staff members. I told her that I felt it was essential; that we recognized Judge Palmer's fairness and justice in trying to deal with his employees, but that we felt the time had come when we should not only for the benefit of the editorial staff, but for the Citizen News as well, to carry [30] on our Guild activities.

At about the same period—and these dates are going to be rather hazy because they occurred with some degree of frequency at luncheon clubs I attended—Harold Wynn the assistant business manager and head of the composing room, would meet me either on the street or at the Hollywood Lions Club which he and I attended, and would question me as to the Guild and its activities.

He particularly asked me from time to time when the Guild was going to ask for a contract with the Citizen News. I told him that under our program of procedure in Los Angeles, we were picking certain papers to follow a general outline, picking the Herald first, because it was the strongest and most financially able west of the Rockies, and we didn't know when we were going to the Citizen News.

He said that he wondered if the Guild was not paying too much attention to the economic phases rather than to the ethical phases.

(Testimony of Roger C. Johnson.)

My reply to that always was that I felt that the Guild should not emphasize the financial and economic phases so much, and that it should pay a great deal more attention to the ethical part of it, and to the matters that pertained to the freedom of the press and the ability to write frank and honest news.

In June of the year which was the time that the American [31] Newspaper Guild was holding its annual convention in St. Louis, Mr. Swisher, the managing editor, talked to me about the Guild and wondered if it was right for the Guild to go into the C. I. O. He felt, he said, that the C. I. O. was a step, perhaps, too far for newspaper men to take at that time. And during the convention he would show me, as he did frequently in the months that followed, news stories pertaining to Guild activities in other parts of the country. He would sometimes comment on them, and sometimes he would simply show them to me without comment.

After the Guild convention, Harwood Young, the business manager, called me to his office one day on a matter not connected with the Guild, and at the outset of the conversation, he said, "Roger, I understand you are organizing the business department."

I replied that I was not organizing the business department; that the Guild at its convention in St. Louis had voted to join the C. I. O. which is an industrial type of organization, which would permit

(Testimony of Roger C. Johnson.)

us to take in the business and other departments of a newspaper, but that a referendum was looming nationally by the various guilds and guild members throughout the country to determine whether or not the Guild should join the C. I. O.

I explained to him that I could not, under that procedure, if I wanted to, organize the commercial department, and that [32] if the Guild nationally did retain its membership in the C. I. O. and permitted us to take in the commercial department and other workers not in the editorial department, I would feel it my duty as a Guild executive to conduct such a campaign not only on the Citizen News but on all other papers over which our Los Angeles Guild had jurisdiction.

At approximately the same time in the month, the same general period, Mr. Young on another occasion asked me—I don't know his purpose in asking me—if Guild membership would prevent a person from holding an executive position, and I replied to him that I did not think that it would, necessarily; that it would depend on circumstances.

About in July—all these dates have to be approximate because my conversations were numerous—Harry Brandon, head of the display advertising department, talked to me at great length in the office of the Citizen News on the main floor one evening after work about the Guild and the C. I. O., and about labor unions in general. He said that he

(Testimony of Roger C. Johnson.)

felt unions might be all right in some cases, but that he couldn't always see the advantage of unions for people in the professional class; that it took away our liberties in many cases; and that professional people were temperamental and couldn't be banded together for a common purpose very easily anyway.

Mr. Brandon from time to time would express similar sentiments to me. [33]

Q. (By Mr. Persinger) Mr. Johnson, were any meetings held between the management and the editorial department during the spring or summer of 1937?

A. Yes; a meeting was held in, I believe, late June, 1937.

Q. Were you present? [34]

A. Yes, I was.

Q. Will you tell us who else was present?

A. Elizabeth Yeaman was one; James Francis Crow, the drama critic; Floyd Simonton; those are the ones I remember distinctly.

Q. Who represented the management?

A. Judge Palmer was present, and I believe Harwood Young, the business manager.

Q. Do you know how that conference happened to be held?

A. Yes, I do. Mr. Young invited me into his office one day and explained to me that various departments were getting together to discuss working

(Testimony of Roger C. Johnson.)

conditions and wages; that they wanted to iron out little things that had cropped up during the course of business, and to discuss what the wages should be, and in general, to iron out little petty grievances.

He asked me if the editorial department would like to do as the rest had done, to meet with Judge Palmer or their department heads to discuss the matters that I have just mentioned to you.

I explained to him that the editorial department was always cooperative, and that it would have no objection, as far as I could see, to meeting on such a basis, although I would have to first talk it over with the members of the Guild.

The meeting was held in Judge Palmer's office, and Judge Palmer explained that the reason for being there was to discuss [35] our working conditions and wages, and see if there were any adjustments necessary in the salaries, and wanted to get our opinion about ironing out any little difficulty that may have cropped up.

James Francis Crow described the editorial department's attitude and desire to cooperate.

During the course of the meeting Judge Palmer reached over on his desk and picked up a paper and said, "This agreement pertaining to the—" I believe he said the business office—"contains such and such proposals for working conditions."

I became a little bit alarmed at that. I didn't say anything. I felt that as Guild members we

(Testimony of Roger C. Johnson.)

couldn't participate in any such agreement with the management because our Guild constitution does not permit us to negotiate such conditions for ourselves.

Elizabeth Yeaman also spoke, and at the present time the thing that I recall about her conversation was, I believe Judge Palmer asked her the question about whether or not the Guild wanted negotiators from outside who didn't know the Citizen News conditions to negotiate for us people from New York, Chicago, Washington—I believe he mentioned them; anyway, the eastern cities—and Miss Yeaman said that newspaper men in the past had been a group that could not get suitable conditions for themselves; they had always been [36] subject to whims, and that they couldn't speak for themselves, and that they felt they had to join organizations and have others speak for them.

Near the conclusion of the conference in the Judge's office I explained that under the Guild procedure it would be necessary for the Citizen News unit to instruct the Los Angeles Guild that it wanted to bargain collectively with the Citizen News; that the executive board at our suggestion would have to select negotiators for us; and that those negotiators would have to be our spokesman, and that as Guild members we couldn't participate in any agreement such as the other departments throughout the paper, as I understood, had been signing, or participating in.

(Testimony of Roger C. Johnson.)

Judge Palmer remarked that if that was the way we preferred to do it, it was all right with him, although my personal impression was that he was disappointed that he could not then and there or at some very near time work out an agreement of some kind.

Mr. Sargent: Now, if the Examiner please, I ask that the impression which the witness gained may go out, unless something was said by the judge.

Trial Examiner Kennedy: It will be stricken.

The Witness: Judge Palmer said that the other departments were getting together to discuss their working conditions; that he didn't see why we couldn't do so; and in line with that I [37] explained that under the Guild's program and constitution we could not follow that procedure.

Q. (By Mr. Persinger) Any other incidents occur during 1937? A. Yes.

Q. Other than what you have mentioned that would have any bearing on your relationships with Respondent?

A. Yes. In my judgment it was in about October when the organizational drive in the commercial department had got under way and members were being signed up, Harry Brandon, the display advertising manager, mentioned to me that he understood he wasn't going to be admitted to the Guild and wanted to know if I couldn't do something about it.

(Testimony of Roger C. Johnson.)

I explained that it was up to the unit under the Guild procedure to determine whether or not the interest of the applicants lay more with the management than with the Guild members, and that the decision was up to the members themselves.

Q. Go ahead.

A. About that time the Guild unit excluded departmental heads. It wasn't aimed particularly at any individualities; it was the same sort of thing we had in the editorial department where we had excluded the managing editor, the city editor, and Judge Palmer's sister on account of their connection with the management.

At approximately the same time Mr. Montrose—I believe [38] his initials are S. C.—display advertising man who, I understand is now the advertising manager, talked to me on the street.

He said he objected to the fact that Mr. Brandon was not being admitted to membership; and I then explained to him the same way I had to Mr. Brandon; that it was up to the Guild membership to determine under the Guild's constitution and by-laws who they wanted in, or which position, if it wasn't a matter of individuals, that they did not want represented in the membership.

Mr. Sargent: If Mr. Brandon was not an executive at that time, I object to the conversation if he was an employee.

The Witness: He was display advertising manager at the time.

(Testimony of Roger C. Johnson.)

Mr. Sargent: I thought you said he became later.

The Witness: Mr. Montrose became later.

Mr. Sargent: If Mr. Montrose at that time was an employee and not a manager, then I object to the conversation with regard to him and ask that it may go out.

Mr. Persinger: Mr. Examiner, in regard to Mr. Montrose's remarks, they will be tied in later with the management. Otherwise, we have no objection to counsel's motion. I think it should be taken under advisement until I have an opportunity to tie it in.

Trial Examiner Kennedy: It will be so done. [39]
Proceed.

Q. (By Mr. Persinger) To clarify, was Mr. Montrose a member of the Guild when he spoke to you?

A. I don't know the date that he joined. I believe he was.

Q. Was he a member after that?

A. Yes, he was.

Q. Had Mr. Brandon applied for membership in the Guild?

A. I don't know whether he actually filled out a membership card, but he asked me if he could join.

Q. Was his name ever proposed for membership by anyone?

A. It was, at a meeting that I did not attend.

(Testimony of Roger C. Johnson.)

Q. All right, go ahead.

A. In this same general period—I believe it was October—I went to Harwood Young, business manager, and told him that some of the display men were complaining to me that they were being required to work Saturdays now which was something that had not been required of them very much in the past.

In fact, most of the advertising men found nothing to do on Saturdays, and there could be no reason why they should be required to work on Saturdays at this particular time.

I told Mr. Young that the display men felt that their interest in the Guild and their activities in the Guild had aroused the ire of Mr. Brandon who had ordered the Saturday [40] work, and that it was bound to create a lot of bad feeling unnecessarily.

I told Mr. Young that if the men were required to work on Saturdays that it was essential that they should be given an explanation as to that and should be told by him or some person in authority that it was not because of their Guild activities, because we certainly, as Guild members, didn't want to disrupt the organization.

I went with Mr. Young to the Hollywood Y. M. C. A., which is about a block from the Citizen News, so we couldn't be seen talking together on this particular thing, and I told him, repeated to him what

(Testimony of Roger C. Johnson.)

I had told him previously; and he said yes, that Mr. Brandon had done this thing hastily; that it was a bad thing to do; and that Mr. Brandon in the past had from time to time caused the management embarrassment because of his quick temper and his—well, I will put a period there.

Q. Just to clarify, you made some remark about going to the Y. M. C. A. so you couldn't be seen?

A. Yes, sir.

Q. Who suggested going to the Y. M. C. A., you or Mr. Young?

A. Well, I wouldn't like to state definitely because I don't recall. I wasn't in the habit of going to the Y. M. C. A. to talk things over, so the suggestion may have come from Mr. Young. [41]

Q. Did either one of you make any statement that you didn't want to be seen with the other?

A. Mr. Young said that. I had no reason for not wanting to be seen, in particular. I would say it was more by mutual consent. He said that he would do his best to correct the situation.

I told him I would be glad to cooperate with him because I didn't want any flare-ups in the advertising department over a small misunderstanding; and the conversation ended when he told me he would talk with Mr. Brandon and see if he couldn't correct the misapprehension and have some of the men, perhaps, not come down on Saturday if the display department could operate efficiently that way. [42]

(Testimony of Roger C. Johnson.)

Several times I was permitted, with the permission of the [45] management, either Judge Palmer or Mr. Swisher, to do some outside publicity work. The first was approximately two years ago in the Hollywood Hussars, an organization sponsored by Gary Cooper, the actor, but actually headed by Arthur Guy Empey, the author. It turned out to be a horseback riding organization, semi-military, and Mr. Swisher, to whom I talked at the time, said that he saw no objection as long as I was going to do the work in my own outside time, which I did, of course; and I often went horseback riding to take out my pay. That was one form of payment to me. I got very few actual dollars; more sores than dollars, from horseback riding.

Another time was during the state American Legion Convention in August, I believe it was, 1936, when my city editor, Harold Hubbard, showed me a letter from some eastern paper—I believe it was the Washington Post—requesting that someone write a story for them; that there was five dollars in it. Mr. Hubbard suggested that I do it, which I did.

Another time in 1936 I was requested to write by our downtown county correspondent—not requested, but asked if I would like to serve on the Roosevelt Publicity Committee when Roosevelt was running for re-election, and I told him I would like some outside work in addition to my salary, if it was

(Testimony of Roger C. Johnson.)

permissible in my office, but in my political capacity I didn't like to do political publicity, but I would ask Judge Palmer, which I did. Judge Palmer told me he saw no objection; [46] that I could do so if I cared to. I later decided that even in spite of that permission I would not do it, and I did not.

In the same fall of 1936 Harwood Young, the business manager, asked me if I would like to handle Santa Claus Lane publicity, which is an annual series of parades and appearances of motion picture stars lasting approximately a month during the Christmas season starting immediately following Thanksgiving and ending usually on Christmas Eve, and sponsored by the Hollywood Chamber of Commerce and the Hollywood Merchantors Association and the businessmen in general on Hollywood Boulevard.

I told him that I would like to do that, but he told me to see Carl Bush, the Chamber of Commerce secretary, and work out the details; and I performed that work and I was paid by a Citizen News check, I believe it was, for performing that work.

I repeated the same thing last year; that is, in December, 1937, again at the request of Mr. Young, the business manager, although this time he told me that because he didn't want to get—I believe he said "involved" or something to that effect, that

(Testimony of Roger C. Johnson.)

the check would come from the Chamber of Commerce this year, and it did come from the Chamber of Commerce. [47]

MELLIER G. SCOTT, JR. [48]

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows: [49]

Direct Examination

Q. What was your salary when you were discharged in May of this year? A. \$40 a week.

Q. Was that a series of small raises?

A. My salary was raised from \$16 to \$18 in March.

Q. What year.

A. 1936; and about a month later it was raised to \$25. I think in August of 1936 it was raised to \$35, and about June, 1937 to \$40. [52]

Q. Now, were your raises personal raises or were they blanket raises throughout the entire department?

A. I think all of them were personal raises except the one about June, 1937. I think there were several other raises at that time. [54]

Q. Any other incidents that you can think of that would indicate your relations with the judge?

A. The raise that I received in August, I believe it was, of 1936, was given to me one afternoon.

(Testimony of Mellier G. Scott, Jr.)

Judge Palmer came in after being down in court, and looked over the editorials and said, "Scott, you are doing fine. I am going to raise your salary."

About a week later I received a raise from \$25 to \$35.

About October, 1936, Citizen News employees in the editorial department began to organize the Guild. I wasn't told about it immediately. I didn't learn about it, I believe, until about two meetings of the employees had been held, and I somewhat resented the fact that I was not asked to join the Guild immediately.

It was explained to me that some of the employees were dubious about asking me to join the Guild because of my close [56] relationship with Judge Palmer. But since I had written editorials in which I had championed the rights of labor and working people in general, I couldn't understand why they would take that attitude toward me, and at the earliest opportunity I went to one of the meetings of the employees and signified my desire to join the Guild.

A few days later I went to lunch with Judge Palmer. He occasionally asked me to go to lunch with him. We went to lunch at Travaglini's and during the course of the luncheon I told him that I had joined the Guild. I said that I had joined the Guild because I believed in the labor movement

(Testimony of Mellier G. Scott, Jr.)

and joined it on principle. At that time I was well satisfied with the salary I was earning. I thought it was sufficient in the light of my experience, and I didn't join the Guild for any personal gain that I could get out of it. It was the natural thing for me to do in view of my general philosophy, general outlook. [57]

The Witness: Judge Palmer made very little comment on my explanation on why I had joined the Guild. As I remember, he just gave me a very long, slow look, took it all in—— [59]

ELIZABETH YEAMAN

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows: [66]

Direct Examination

The Witness: It was about in June, 1936, I believe, that several of us in the editorial department were wondering if we would get a raise when they sometimes gave raises in July, and Morton Thompson, a member of the department at that time, got the bright idea that all eight of us who had been there for some time, or who were regarded as outstanding members of the department, or important members of the department, should send in a little petition to Judge Palmer asking for a

(Testimony of Elizabeth Yeaman.)

raise in salary. We thought that sounded like a good idea, too, and I remember that we worked on this petition for a couple of days writing it and rewriting it to make it very diplomatic and very polite, stating that business conditions seemed to be nice now and we should like an increase in salary.

And the petition, signed by the eight of us, was presented to Mr. Swisher who, in turn, was asked to give it to Judge Palmer. He gave it to Judge Palmer. Mr. Swisher brought back word that the judge looked at it and read it, and said to him, "Well, what are they making? What do they want?" [72]

I was amazed, and the others expressed equal opinions of amazement, that Judge Palmer, of all people, didn't know what we were earning, and had no idea of what we wanted.

And so we got together in a huddle and decided what we should do, and we decided that individually we would write him little letters; we would seal them up, and we would not consult with each other on them, but we would just write a personal letter stating whatever we wanted and send it in to him.

In the majority of cases they turned out to be case histories of what our raises had been and approximately what time and how long we had worked there, and we sent in these little letters, and we waited anxiously for some reply to them.

We didn't get a reply, and we were getting a little jittery and anxious about it; and finally Mr.

(Testimony of Elizabeth Yeaman.)

Thompson, Judge Palmer's Secretary, came in one afternoon and posted a notice on the bulletin board inviting all editorial department employees to see Mr. Thompson to make an appointment for an individual interview with Judge Palmer to discuss salary readjustments.

And we eight who had sent in the petition felt that we had more or less had our ears slapped down for presuming to have asked ourselves since no answer was ever sent direct to us, and this blanket invitation was posted on the bulletin board as our only answer.

We made our appointments with Judge Palmer. I remember I went in for mine. It was a perfectly delightful interview. [73] He had the capacity to draw you out, to make you expand, to make you feel you were important, that you were good.

Chiefly, the discussion centered on my ultimate ambition and what my aspirations for the future were. It was a perfectly charming talk. I came out glowing, just glowing. I felt everything was wonderful, and suddenly I sat down at my desk and realized that the subject of money had never been mentioned. And it was something of a shock.

And the others went in and had their little appointments and they came out and we all got together all feeling so good, isn't the judge wonderful, and whether I ever got a raise or not, I would still think he was wonderful.

(Testimony of Elizabeth Yeaman.)

We went on like this, and then we got to comparing notes further and discovered that he hadn't mentioned money to any of the eight, I should say.

The first week in July, I believe it was, some raises came through. They were just sort of blanket, customary raises that generally had come, and at that time the word came around through Roger, who had talked to Mr. Young when we had expressed disappointment at not being heard, our petition of eight not being heard, that Mr. Young said to him, "Well, Judge Palmer never deals with pressure groups."

We were very much hurt and astonished that he should have regarded this very diplomatic little petition as the efforts of a pressure group. [74]

I will try to think of the proper sequence of events from now on.

It was in the following fall—I am leaving out something. At the time that the salary raises that first week in July, I believe, were made, a copy of Office Gossip was issued. Office Gossip is a little mimeographed sheet that tells all gossip about various employees in the different departments; it is put out by the management, and it is issued with our pay checks on Monday morning.

This copy of Office Gossip stated that if anyone was dissatisfied with his wages or working conditions—I can't be exact in the wording, but I submitted my copy of Office Gossip to Mr. Persinger—that anyone who was dissatisfied was re-

(Testimony of Elizabeth Yeaman.)

quested to seek employment elsewhere, earnestly requested to seek employment elsewhere.

Q. Just a moment.

(Thereupon a document was received and marked as Board's Exhibit No. 3 for identification.)

Q. (By Mr. Persinger) I show you a document marked Board's 3 for identification and ask you if you can identify it. A. Yes.

Q. Is this the Office Gossip edition you spoke of?

A. Yes, sir.

Mr. Persinger: This reads—it is in three parts, the second part headed, "Register your complaints." reads as [75] follows:

"If any employees have any complaints as to salary or working conditions, they should lodge them with Mr. Young or with their department heads who will take them up with Mr. Young. Complaints thus presented will receive earnest consideration. The management will probably not agree with all your contentions, but will welcome them, and you will feel better after discussing them with someone in authority. If employees are dissatisfied after their complaints have been considered, they should make an immediate and earnest effort to locate jobs elsewhere, for they are not doing themselves justice in working under conditions against which they rebel."

(Testimony of Elizabeth Yeaman.)

I offer that in evidence as Board's Exhibit 3.

Mr. Sargent: No objection.

Trial Examiner Kennedy: It will be so received.

(Thereupon the document above referred to was received in evidence and marked as Board's Exhibit No. 3.)

BOARD'S EXHIBIT No. 3

This was issued after 8 of us in the editorial department had asked for salary raises.

OFFICE GOSSIP

Saturday, July 4, 1936

Appreciated

The donations, totalling \$25.54 by Citizen-News employees to the shoe fund for poor children in memory of Mary G. Palmer were greatly appreciated by her family. This cause was always close to Mrs. Palmer and she obtained great satisfaction from every pair of shoes that she could help to provide for the unfortunate ones.

* * * *

Register Your Complaints

If any employees have any complaints as to salary or working conditions they should lodge them with Mr. Young or with their department heads who will take them up with Mr. Young. Complaints thus presented will receive earnest

(Testimony of Elizabeth Yeaman.)

consideration. The management will probably not agree with all your contentions but will welcome them and you will feel better after discussing them with someone in authority. If employees are dissatisfied after their complaints have been considered, they should make an immediate and earnest effort to locate jobs elsewhere for they are not doing themselves justice in working under conditions against which they rebel . . .

Harlan G. Palmer

* * * *

The display department seems to be having old home week what with moving desks and phones and everyone playing "Puss wants a Corner" or something. . . . Wally Sellers and his assistants have been installing all cuts from the composing room into new files installed last Tuesday nite, a result of V-men recommendations. . . . Wally has a new rule regarding serving outside publications with mats before 6 P.M. so that files will not be entered during the evening. . . . Evelyn Greig was transferred into the main office to assist Harry Brandon. . . . Quite a social whirl what with George Engstrom of the Fresno Bee, Hugh Baker's brother from Trinidad, Colo., and Margaret Mary Johnson's boy friend from Minnesota all to be shown the town. . . . Bea Brennan went philanthropic and sold roses at the

(Testimony of Elizabeth Yeaman.)

Actors Fund benefit and does she know the low-down on your favorite movie star. . . . Will the salesman who left his Citizen-News advertising rate book at 1000 West 7th please notify Mr. Brandon as to who he was? . . . Circulation for June was terrific. . . . Has Rip told you about the boys new plan to have the radio cops help them to collect? . . . Why does Elizabeth Yeaman read a Bible in the drugstore of all places? . . . Try and get Joe Brown to confess about his wrestling match with Jack Daro at the Olympics Wednesday nite. . . . Why does Mary Shoemaker keep pestering everyone to find out who Ford Dixon is? . . . The Judge is having the annual clan meeting of the relations at Malibu for the Fourth. . . . Dean Morgan, Jimmy Rohrer and George Freeberg are heading for San Diego for two weeks of marching and sore feet with the Marine reserves. . . . Jack Baughman wound up his Oregon vacation with a demolished car and a few stitches on his pate. . . . Some fun! "Is it true what Judy says about Dayton" . . . Bo-bo-bo-Horace Turner has a new swivel chair but can't use it while the Bowl programme is under way. . . . Don Ryrie, Jack Miner, Hank Grattan, Les Benson and Ernie Belt are practicing up for that tennis challenge from the business office. . . . George Porter has been looking that way because Char-

(Testimony of Elizabeth Yeaman.)

lotte Muir has been out with the flu all week. . . . In Sepulveda is the House that Jack built—Jack Petty. . . . Vacationing this week—No-Stupe—not all together, are Bill Gibbs, Lowell Redelings, George Palmer, Lucille Bowley, R. P. Smith, L. Lugoff, the Hookways, father and son, Glenn MacDonald and Paul Tull.

The Witness: It is a little difficult for me to tell you what a shock that paragraph was to me and to others in the editorial department.

Mr. Sargent: If the Court please, I ask that that may go out as entirely unresponsive.

Mr. Persinger: If the Examiner please, I think she should be permitted to give her own reaction which is the important [76] part of such a notice.

Trial Examiner Kennedy: That is the reason I hesitated ruling because I knew the same material could come in practically the same form with just one or two proper foundation questions.

Mr. Sargent: I have no objection to her giving her reaction.

The Witness: If it please the Board, perhaps I owe you an apology, but I would like to explain to you and to Mr. Sargent that in the Guild and in the editorial department we not only bargain collectively, but we think collectively, and it is awfully

(Testimony of Elizabeth Yeaman.)

hard to say "I—I" because we don't think that way, and if I do offend in that way, I am sorry; but I am not accustomed to it.

Trial Examiner Kennedy: It is just one of the technical rules of the game. I think probably Mr. Sargent will be on guard to see that there is compliance with that rule, and under proper circumstances when he makes the proper objection, why, his objection will be sustained.

The Witness: If I slip, why, it is not a deliberate violation. It is instinct with me.

Trial Examiner Kennedy: It will be the editorial "we."

The Witness: Yes.

Mr. Sargent: I have no objection to her giving her reaction, your Honor. [77]

Trial Examiner Kennedy: Perhaps the Examiner's remark was objectionable.

Mr. Sargent: I have no objection to that.

Trial Examiner Kennedy: Now you go right ahead.

The Witness: I was greatly shocked by this paragraph in Office Gossip, because, as I have just explained previously, I had always felt so free to go to Judge Palmer with anything that came up, and in reading that brief paragraph I felt, and in discussing it with others, I found a joint, similar reaction, I felt that Judge Palmer's door had been slammed in my face; my free access to him when

(Testimony of Elizabeth Yeaman.)

anything that bothered me or troubled me came up had been cut off then and there.

I was hurt; I was shocked; I couldn't understand it; and I felt definitely that the whole thing was the result of eight of us in our naive wish to earn some more money having, perhaps, tread upon his toes in **presenting** a joint petition for some more salary. I couldn't understand any other reason for such an action.

So as a result, I did not go in to see Judge Palmer as I had previously. I didn't feel free to go in, and it made me very unhappy. I was used to running in there some times just to discuss the current affairs that were going on, to have pleasant little arguments over politics or something; and I didn't go in, and something was missing; something was cut off that I hadn't had before. [78]

And the following September they started organizing the Newspaper Guild in Los Angeles, and I will confess now that my ignorance of the labor movement was so complete that I knew very little about unions or guilds.

It had never occurred to me that a guild or union would be anything that I would want, that it would be anything that would appeal to me, and yet, because I felt more or less thwarted at the Hollywood Citizen News because I couldn't go to anybody any more, I developed the need to be with my fellows, to band with them, to discuss my problems with

(Testimony of Elizabeth Yeaman.)

them badly, and I joined the Newspaper Guild, although at the time I did go, I was amusingly called by my fellow members of the staff "a dirty, black Republican and a reactionary," and I think it was a source of considerable amazement to the other members that I did join the Guild.

I think, well, they thought, "this is an unexpected convert to the labor movement that we didn't think we would have."

I joined the Guild and I felt very happy in the Guild. [79]

Following—well, I think it was last June—each department was asked by Judge Palmer or Mr. Young to form a committee to send to him to discuss an agreement on wages and working conditions. The majority of us in the editorial department were then members of the Los Angeles Newspaper Guild. We held a unit meeting to discuss it and decided that inasmuch as we were members of the Guild we could enter into no company union agreement of any kind; that any contract or agreement reached would have to be reached through the Guild.

With those definite instructions, a committee was appointed to go in and discuss the matter with Judge Palmer, [85] acceding to his request that we send a committee.

That committee was composed of James Francis Crow, Floyd Simonton, Roger Johnson, and myself.

(Testimony of Elizabeth Yeaman.)

It was agreed among us that Jim was to be the chief spokesman, and I agreed that I would say practically nothing. Of course, I usually talk a lot, and I felt that Jim and Roger and the others could possibly present it more clearly than I.

As I look back on it now Jim made rather a pathetic effort in that discussion to try to educate Judge Palmer to the meaning of the Guild and its significance and value for us. He was very ingratiating and cautious in his approach in his sincere effort to explain to Judge Palmer without offending him why we could not do as the other departments had done—submit a schedule of wages and working conditions.

He explained that we were prohibited from such activity by the constitution of the Guild; and Judge Palmer apparently could not grasp what Jim was saying, either purposely or accidentally. He didn't seem to be able to understand it because he kept putting the proposition right back to Jim, saying, "Well, what do you people want? What salaries do you want? We are making up the budget for salary adjustments. Give me some idea of what you want."

And Jim would begin patiently all over again and go through the same explanation; and this went on until things were becoming very tense, and finally Judge Palmer said, "What [86] is the matter with you people?" He grew very angry. "What is the

(Testimony of Elizabeth Yeaman.)

matter with you people? Don't you know what you want? Can't you make up your own minds? Do you prefer to have somebody in Washington or New York or some place dictate to you? Can't you decide what you want for yourselves? Would you prefer to be dictated to by strangers miles away from you?"

And at that time I spoke up and I said, "Judge Palmer, that may be hard for you to understand, but it is true." I said, "Throughout the ages newspaper reporters have proven their complete inability to bargain properly for themselves."

I said, "Throughout the ages as individuals they have proved that they cannot attain for themselves the standard of living or the working conditions that other people in their class can," and I said, "We, as members of the Citizen News Unit of this newspaper guild realize only too well that we have failed just as badly as the men and women who have gone before us. We know we are failures. We haven't been able to bargain adequately for ourselves, and for that reason we are very happy and welcome having the Guild do it for us."

And he became extremely angry. He got red in the face. He was furious.

And that was about the sum and substance of Guild discussion at that meeting. It was at that meeting at which we left without having submitted any schedule as he had angrily [87] asked and de-

(Testimony of Elizabeth Yeaman.)

manded that we do, as had the other departments.

It was a number of days after that—I can't approximate the time now—it was a Friday afternoon, I remember well. Mr. Swisher called me into his private office and asked me to sit down. I sat down, and without any preamble of any kind, he said, "Miss Yeaman, I am making Jim head of the drama department."

I looked at him. It was rather a surprising announcement. And I said, "Yes."

He said, "He does the work, and he ought to have the title."

And I said, "Well, as a matter of fact, Swish, Jim does do the work of an actual editor of that page. No one knows it or appreciates it more than I do."

I said, "He makes up the page. He edits the copy. He writes the heads. That is work that I did when I first had this job, work that always fretted me; it was hard for me; work that I disliked, and work that I was so delighted to have Jim take over because he is very quick and very efficient at it, and technically speaking, that is the work of a drama editor, and if Jim wants that title, and you feel he should have that title, that is perfectly all right with me." [88]

KARL VON VETLER SCHLICHTER

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Trial Examiner Kennedy: Give the reporter your full name and address, please. [94]

The Witness: Karl von Vetler Schlichter, 4627 Kingswell Avenue, Los Angeles.

Direct Examination

Q. (By Mr. Persinger) You formerly worked for the Citizen-News? A. Yes, I did.

Q. When did you first go to work there?

A. My first connection with the Citizen-News was in 1934, I believe, when I made a market survey for them through the University of Southern California. Then later some time in March of 1936 I received a call from T. Harwood Young, the business manager of the Citizen-News. He asked me to accept a job as commercial researcher and promotion manager on the paper.

At the time I was employed. I had a civil service rating. I told him that I had considerable security there and presumably for the rest of my life. He said, "Well, this is not the type of organization that fires people who are satisfactory. Can you get a leave of absence?"

I said that I thought I could for a period of six months. And then he said, he would suggest that I get a leave of absence for six months, come to work for the Citizen, and if at the end of that time

(Testimony of Karl von Vetler Schlichter.)

he was satisfied, I was satisfied, I could consider my job as secure as I considered my previous job under civil service. [95]

Q. And did you start to work then for the Citizen-News? A. Yes, I did.

Q. At what salary?

A. My starting salary was \$35 a week.

Q. You were discharged May 14 or May 15 of this year?

A. I received a telephone call some time in the middle of the morning of May 14, Saturday. I was not at work. I did not work regularly on Saturdays. Harry Brandon, the advertising manager, asked me to come to the office.

I asked him why. He said he couldn't tell me. That he didn't want to spoil my week-end, so I should come in early Monday morning, at seven-thirty. I did so; met him at seven-thirty, and he discharged me.

Q. What was your salary at the time you were discharged? A. \$42.50. [96]

Q. Now, to go back to the time you were first employed on the Citizen-News, will you tell us in your own words your personal relations with the management? You joined the Guild, did you not?

A. Yes, I joined the Guild in June, 1937.

My relations with the management were very friendly. I did not have the feeling that there was any anti-union activity at that time, though I was

(Testimony of Karl von Vetler Schlichter.)

unaware of this lack of knowledge as to my membership in the Guild as far as the membership was concerned. [99]

The first awareness of that type of activity was when the manager of the classified advertising department was talking to me one day.

Q. When?

A. I am quite sure it was shortly after I joined, some time in June, because we were discussing the semi-annual wage adjustments.

Q. Did those always take place the same time, July and January?

A. Yes. And in the conversation he said that he thought that the editorial workers were making a serious mistake to attempt to get higher wages. I said why did he think so. He said, "Well, the judge will never sign a union contract."

From then on there were a number of instances that made me feel that there was a definite program of attack on the union. Harry Brandon, the advertising manager, held regular meetings of the display salesmen almost every morning.

Q. Wait just a moment.

You had a particular job. Were you working under Mr. Brandon?

A. Why, when I first went to work, I was directly responsible to T. Harwood Young, the business manager. That continued on for about a year.

I then met Harry Brandon. Then Harry Brandon

(Testimony of Karl von Vetler Schlichter.)

assumed more and more authority over his department and also consider- [100] ably more authority over my work. I was required to attend these meetings, and on several occasions he spoke very harshly about unions in general, the Guild in particular.

Mr. Sargent: I object to that characterization and ask that he give the substance of what he said.

Trial Examiner Kennedy: Could you tell exactly what was said?

The Witness: Yes, I can.

Mr. Sargent: May the characterization go out?

Trial Examiner Kennedy: It will be stricken, the characterization.

The Witness: On several occasions he consumed the entire period of the meeting in a discussion of unions. For example, one time following headlines in the papers about a strike situation back East—I don't recall the immediate situation—he said that white collar workers were caught in the middle between business and laboring people, and that one of these days the white collar workers like us are going to get ourselves some guns and go out and shoot those union bastards.

That was the general tenor of those conversations.

On another occasion he derided the men for not working hard enough. He said that in the old days newspaper men were willing to work 12 and 16 hours a day, and reporters were better than policemen at catching criminals, ate and slept newspaper

(Testimony of Karl von Vetler Schlichter.)

work. "Now all they want to do is put in eight [101] hours, and watch the clock," and that the Guild was largely responsible for this.

And that type of thing continued at intermittent periods.

Then about, I think it was in October, 1937, we were invited to hold a conference to discuss whatever demands or requests we might have about working conditions or wages, and, being a Guild member, I discussed that with several other Guild members, told them I was of the opinion that this was an attempt to form a company union.

In one of these meetings after we had been discussing our demands, what our requests and demands might be, S. C. Montrose, one of the salesmen, arose and said that he would move that we ask the management to give more authority to Harry Brandon, sales manager, inasmuch as he had some very good ideas that he was never permitted to carry out; that he didn't have the right to select his own staff.

Jim Fisher got up and questioned him to this effect: "Do you mean that you want us to suggest that Harry Brandon, our boss, be given the right to hire and fire?"

He said, yes, he thought that Harry Brandon should have that right.

It wasn't very long after that that Harry Brandon requested membership in the Guild, and at a

(Testimony of Karl von Vetler Schlichter.)

Guild meeting at which his application was brought up, Montrose spoke at some length, possibly two hours, without interruptions, in favor of Brandon's— [102] in favor of the acceptance of Brandon's application.

I discussed this matter with Jim Crow, Jim Fisher, and others, and I told them that I felt this was an attempt to have Brandon dominate the Guild, particularly the display advertising men in the Guild, as he had dominated the sales meetings, and that I was very much against the acceptance of Brandon as a Guild member.

I told them that I felt this was an attempt, following the failure of the first company union, to make the Guild a company union and to emasculate it.

Montrose spoke at great length in favor of Brandon's acceptance. After he had exhausted all his arguments and a vote had been taken, he said this, in effect: He said, "You people may think you don't want Brandon in this organization, but you don't know him, and I do, and I can tell you now that you are going to be sorry that you didn't accept him."

A short time after that Brandon said in a sales meeting, regular meeting, that "You fellows certainly have tried to screw me up."

Then at another meeting a few days after that he said, "You fellows aren't working hard enough. You are thinking too much of unions, and you are not doing your work."

(Testimony of Karl von Vetler Schlichter.)

I believe it was in November or December that I attended a meeting at the Los Angeles Chamber of Commerce with Harry Brandon. We left with a representative of one of the Hearst [103] papers whose name I didn't catch.

Brandon and this man started discussing the Guild. That occurred shortly after the settlement of the Guild dispute in the East, and Brandon said that if he were a member of the Guild he would be very much ashamed to belong to any organization that had settled the dispute which involved the lowering of salaries of some of the workers on the paper.

And on the way back to the plant in the car after we left this man, he enlarged on that particular point. He said that the editorial workers on the Citizen-News were not worth greater salaries than they were getting; they couldn't possibly hold a job on any other paper, any other metropolitan paper, and that when they were told if they didn't like conditions they could get jobs elsewhere, they never accepted the invitation, but always felt, well, they were satisfied. [104]

ROGER C. JOHNSON

a witness recalled by and on behalf of the National Labor Relations Board, having been previously duly sworn, resumed the stand and further testified as follows:

(Testimony of Roger C. Johnson.)

(Thereupon a document was received and marked as Board's Exhibit No. 4 for identification.)

Mr. Persinger: At this time, Mr. Examiner, I think I shall offer as Board's Exhibit 4 in evidence a file which has been made up through the joint efforts of the Board and the Respondent, and which contains all the correspondence beginning on December 15, 1937, and continuing to June 7, of 1938, which relates to the negotiations carried on between Respondent and the Guild. It contains various proposals and counter-proposals. I offer it in evidence as a single exhibit. I don't see any particular point in breaking it down into subdivisions because the dates ought to be sufficient, and in referring to Exhibit 4, individual documents can be referred to by their dates.

Mr. Sargent: Mr. Examiner, I have no objection to the [105] file being entered save if we are to have them all as one, I would like permission in case any error is found, to be able to correct the error later on. For example, I have furnished at the request of counsel several proposed agreements, and if it be that by reason of an attempt to comply with this, I may have gotten a wrong page in somewhere or have an agreement with certain handwriting upon it, or if for any other reason it is not in all respects accurate, I would ask not to be bound thereby.

(Testimony of Roger C. Johnson.)

To the best of my recollection, that file now contains the complete correspondence, which was gotten out here this morning, and is complete, and I believe it is accurate. As the testimony goes along, it may show that there is some particular in which it is not entirely accurate, and as to that, if it should develop, I would like the opportunity to rectify and not be bound by the file as it now appears. [106]

BOARD'S EXHIBIT No. 4

Dec. 15, 1937

Judge Harlan G. Palmer,
Publisher,
Hollywood Citizen-News
1545 N. Wilcox Ave.,
Hollywood, California

My dear Judge Palmer:

The Los Angeles Newspaper Guild negotiating committee representing the employes of the Hollywood Citizen-News who are employed in an editorial capacity wishes to meet with you to offer a proposed contract for collective bargaining purposes.

May I suggest that you set a time late Friday afternoon, Dec. 17, for us to meet? This will permit most of the negotiators to be free from their assigned duties and will likewise make it possible for many of your editorial workers to sit with us as observers.

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

We are certain that our discussions of various contract points will lead to a type of agreement satisfactory both to your staff and to the management.

Cordially yours,

C. H. GARRIGUES,

Executive Secretary

316 Currier Bldg.

CHG:A

Hollywood Citizen-News
1545 North Wilcox Avenue
Hollywood, California

Hollywood 1234

December 16, 1937

C. H. Garrigues, Executive Secretary,
Los Angeles Newspaper Guild,
316 Currier Bldg.,
Los Angeles, California.

Dear Garrigues:

Wednesday afternoon, December 22, at Five o'clock would be the first date I could give you that would suit your wishes of a late afternoon appointment.

With best regards.

Yours very truly,

(Signed) HARLAN G. PALMER

HGP/T

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

Los Angeles Newspaper Guild
Chapter No. 69, American Newspaper Guild
Affiliated with the Committee for
Industrial Organization
Los Angeles, California
(Bug) 1
315 Currier Bldg.

Dec. 17, 1937

Roger C. Johnson	Tom Cullen
President	Secretary
1545 N. Wilcox Ave.,	416 American Bank Bldg.
HOLLYWOOD 1234	129 W. Secount St.,
Ted LeBerthon	MICHIGAN 9284
Norman Jacoby	Frank Mittauer
George R. Rogan	Treasurer
Vice Presidents	1247 S. Los Angeles St.,
	PROSPECT 2131

Judge Harlan Palmer
Hollywood Citizen-News
1545 North Wilcox
Hollywood, Calif.

Dear Judge Palmer:

Thank you for your letter of December 16, giving us an appointment at 5 p. m. Wednesday. We will be there at that time.

With sincerest regards,

Yours very truly,

(signed) C. H. GARRIGUES

Executive Secretary

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

AGREEMENT

This Agreement, made and entered into at Los Angeles, California, this day of, 1937, by and between the Citizen-News Company (hereinafter referred to as "the Publisher") and the Los Angeles Newspaper Guild (a local, chartered by the American Newspaper Guild, hereinafter referred to as "the Guild"), acting for itself and on behalf of all the employes in the Editorial Department of the Hollywood Citizen-News and [the Hollywood Advertiser]* its affiliated publications, except as hereinafter provided.

Witnesseth:

That in consideration of the mutual promises and agreements hereinafter agreed upon, it is understood and agreed by and between the Publisher and the Guild, as follows:

Article I—The Publisher does hereby recognize the Guild as the exclusive agency of its editorial employes for purposes of collective bargaining. [Anything above or not covered by the agreement is OK]

Article II—Guild Shop.

1. The Publisher shall require as a condition of employment of any employe that he be and remain

*Matter enclosed in brackets [] written in pencil.

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

a member of the Guild in good standing during the term of his employment. If an employe be not a Guild member at the time of signing of this agreement or at the time of his acceptance of employment, he shall become a member of the Guild within thirty (30) days of the date of signature of this agreement or within thirty (30) days of his becoming an employe of the Publisher.

2. The Guild agrees that it will admit to membership and retain in membership any employe subject to the Constitution of the American Newspaper Guild and by-laws of the Guild.

3. In the event that the Publisher finds it necessary to fill vacancies in the aforesaid editorial positions or requires additional editorial employes, he shall apply to the Guild to supply a candidate, or candidates, for said positions. In the event that the Guild is unable to supply candidates for said positions, satisfactory to the Publisher, within five (5) days after notice by the Publisher to the Guild of his requirements, the Publisher may select any persons he desires for such positions, provided they are eligible for Guild membership.

Article III—Classification.

1. The Editor, Managing Editor and City Editor shall be excluded from the provisions of this agreement.

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

2. In the application of this agreement, all employees shall be divided into the following classifications:

(a) Reporters, including all editorial employees not otherwise classified; desk men, rewrite men, copy readers; rewrite men and reporters used interchangeably as copy readers, photographers and artists.

(b) Office boys and librarians.

Article IV—Minimum Salaries.

1. No employe in any of the foregoing classifications shall receive a weekly rate of pay less than that set forth in the following schedule of minimum rates:

(a) Editorial Employees

After five (5) years' newspaper experience.....	\$70.00
After four (4) years' newspaper experience.....	60.00
After three (3) years' newspaper experience.....	55.00
After two (2) years' newspaper experience.....	45.00
After one (1) year's newspaper experience.....	37.50
Less than one year's newspaper experience.....	30.00

(b) Office Boys

Less than one year's newspaper experience.....	20.00
After one (1) year's newspaper experience.....	22.50
After two (2) years' newspaper experience.....	25.00

2. As of the effective date of this contract, the salary of any employe which is not increased by fifteen (15%) per cent through the application of

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

the minimum salary provisions, shall be so increased.

3. The basis for computing experience, within the meaning of the above sections, shall be as follows:

Employment shall be calculated upon the basis of time spent on the staffs of daily newspapers of general circulation, or the bureaus of established national, or local news or photo services, in the same line of employment for which said employe is hired by the Publisher.

4. The provisions of this Article shall in no manner affect rates of pay now or hereinafter received by employees in excess of the minimum scale herein provided.

Article V—Five-Day Week

A five-day week for editorial employes is hereby established. In this connection the standard work day for editorial employes as hereinabove defined, shall be eight (8) hours to be served within nine (9) consecutive hours. All employes shall be entitled to reasonable time off from employment for mid-day lunch, or in those cases where the employe reports for duty before eight o'clock a. m. or works later than six o'clock p. m., for other meals. It is agreed that time off for meals as herein provided

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

shall not be included within the eight-hour period employed, unless on assignment.

Article VI—Overtime.

1. Overtime shall be compensated for at the rate of time and one-half, in either cash or time off.

2. Accumulated overtime shall be liquidated within regular 90-day periods, in amounts of not less than eight (8) continuous hours off, even if a less amount of time shall have been accumulated, at the mutual convenience of the employe and the Publisher, provided that a reasonable amount of accumulated overtime may be added to the employe's annual vacation. If overtime is compensated for in cash, it shall be liquidated weekly.

3. If an employe, having been once released from duty, is called back to duty before his next regular shift begins, he shall be compensated for one hour at the overtime rate in addition to the actual overtime worked after return to duty.

4. If an employe has not taken his accumulated overtime at the termination of his employment with the Publisher, he shall be compensated for such overtime in cash in a lump sum. In the event of the death of an employe, the Publisher shall pay to his estate an amount equal to the amount of overtime in cash to which the employe would have been entitled.

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

5. In carrying out the provisions of this Article, it is agreed that each employe who is required to work overtime shall obtain from the Publisher or his representative who is responsible for the assignment, a memorandum showing the date and the number of hours due him, a copy of which shall be filed with the party making said assignment.

Article VII—Severance Indemnity.

1. Upon dismissal, an employe, upon request, shall receive a written notice from the Publisher or his agent stating the cause of his dismissal.

2. Upon dismissal or resignation, an employe shall receive cash severance pay in a lump sum equal to three (3) weeks' pay for every year of service, or fraction thereof, with the Publisher; such pay to be computed at the highest weekly rate of pay which the employe received during the year immediately prior to termination of employment, provided that if the employe's length of service is less than three months, no severance payment shall be made; if length of service is more than three months and less than six months, the severance payment shall be equivalent to one weeks' pay; and, if more than six months, but less than one year, the severance payment shall be equal to two weeks' pay.

3. In computing severance pay the years of service of an employe shall be determined as the total

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

consecutive years employed in the Citizen-News organization and predecessor companies.

4. In the event of the death of an employe, the Publisher shall pay to the employe's estate an amount equal to the amount of severance pay to which the employe would have been entitled upon dismissal or resignation.

5. Leaves of absence, granted by the Publisher, shall not count as breaks in continuous service although the time spent on such leaves shall not be considered service time.

Article VIII—Vacations.

1. Employes shall be entitled to annual vacations with full pay at the rate of one week after six months' service, two weeks after one year of service, three weeks after three years' service and four weeks after ten years' service.

2. An employe shall not be required to accept a vacation at any time except between May 15 and September 30.

Article IX—Sick Leave.

1. Sick leave with full pay shall be granted all employes.

2. No deductions shall be made for sick leave from overtime credited or to be credited to the employe.

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

Article X—Limitation of Apprentices.

1. Of the editorial employes as defined in Article III, not more than thirty per cent (30%) shall be employes with less than five years' newspaper experience and within that thirty per cent (30%) not more than one-half ($\frac{1}{2}$) shall have less than three (3) years' experience.

2. It is agreed that employes who satisfactorily perform the work normally or customarily done by fully experienced employes are entitled to receive a wage not less than the minimum wage provided in this agreement for fully experienced employes.

3. For the purpose of putting this principle into effect, it is agreed that not more than 30 per cent of the Editorial Employes of the Publisher shall receive a wage less than the minimum herein provided for employes of five years' experience, and it is further agreed that of said 30 per cent, not more than one-half shall receive a salary less than the minimum herein provided for employes of less than three years' experience. The provisions of this paragraph shall not apply to Librarians, or Office Boys.

Article XI—Expenses and Equipment.

1. The Publisher shall pay all legitimate expenses incurred by any employe in the service of the Publisher and necessary working equipment

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

shall be supplied by the Publisher. Employees using their own cars on assignments shall be compensated at the rate of ten cents (10¢) per mile.

2. Publisher shall reimburse employees for any damages to clothing, personal effects or professional equipment used in the course of said employment. Publisher shall pay as an item of expense for necessary meals when employees are working overtime by assignment. In the event of the death of an employee all unpaid expenses incurred on assignments as provided in this Article shall be paid to the estate of said employee.

Article XII—Miscellaneous.

1. **Syndicate Rights:** When the management sells or permits the use of any product of an employee for publication outside the Citizen-News Company organization, a mutually agreeable payment shall be made to the employee, and such payment shall be in addition to his weekly wage.

2. **Struck Work:** No employee shall be permitted to handle struck work, or work destined for struck departments or shops.

3. **Guarantees:** There shall be no reduction in pay of any employee and no reduction of personnel as the result of this agreement or of negotiations which led to its execution.

4. **Combination Assignments:** No employee employed as a photographer shall do the work of a

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

reporter, nor shall any employee employed as a reporter do the work of a photographer. It is further understood that employees hired as office boys, while employed as such, shall not perform the functions of reporters.

5. Space Writers: Space writers on regular assignments or correspondents contributing news or feature stories ordered by the City Editor or any other authorized agent of the Publisher, exclusive of student correspondents, shall be paid each week for such contributions at the rate of not less than seven and one-half cents ($7\frac{1}{2}\text{¢}$) per column line. Space writers who are contributing correspondents shall in addition to said space rates be reimbursed for travel expenses in the same manner as regular employees are reimbursed therefor under the terms of this agreement.

6. Outside Activities: Employees of the Publisher shall be free to engage in any activities on their own time which do not consist of services performed for publications in direct competition with the Publisher, provided that without permission, no employee shall exploit his connection with the Publisher in the course of such activities.

7. Vocational Opportunity: The Publisher agrees that copy boys or office boys who have been employed by the Publisher for three years will be given the opportunity for advancement in the classi-

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

fications covered by this agreement, provided that additions to the staff under this provision shall be exempt from the limitations of Article X. Any copy boy employed after the signing of this agreement need not be retained by the Publisher if, after three years' employment, he has failed to qualify for other employment.

8. The Publisher agrees not to have or enter into any agreement with any other employer binding such other employer not to offer or give employment to employes of the Publisher.

9. No existing economic benefits or privileges now enjoyed by any of the employes in the classifications covered by this agreement shall be diminished or otherwise adversely affected by this agreement during the term thereof.

10. The Publisher agrees that no employe shall be required to have published under his own name any material containing an expression of opinion not in conformity with his own opinions.

11. The Guild is hereby given the privilege of posting notices upon the bulletin board now maintained in the editorial offices of the Publisher, and the Guild is hereby given permission to collect dues from its members on the premises of the Publisher, with the further privilege of holding unit meetings on the premises of the Publisher, provided that said meetings shall be held at times when the employes attending the same are off duty.

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

12. This agreement shall inure to the benefit of and be binding upon the successors and assigns of the Publisher.

13. This agreement, when executed by the parties, shall be and remain in effect for a period of one (1) year from and after the date of its execution. Furthermore, the terms of this agreement shall be retroactive as of the date when negotiations concerning said terms were begun.

14. Within a sixty (60) day period immediately prior to the termination of this agreement, the Publisher and the Guild may initiate negotiations for a new agreement to take effect at the expiration of the present agreement.

THE CITIZEN-NEWS COMPANY, a
Corporation,

By.....

By.....

LOS ANGELES NEWSPAPER GUILD,
a Local of the American Newspaper
Guild

By.....

By.....

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

Hollywood
Citizen-News
1545 North Wilcox Avenue
Hollywood, California

HOLLYWOOD 1234

January 4, 1938

Los Angeles Newspaper Guild,
316 Currier Bldg.,
Los Angeles, California.

Gentlemen:

Attention: C. H. Garrigues, Executive Secretary

Enclosed herewith find for your consideration duplicate copies of changes which we contend should be made in the contract submitted to us by you.

Yours very truly,

THE CITIZEN-NEWS COMPANY
By HARLAN G. PALMER
General Manager

HGP/T

Encl. 2.

Opening paragraph should read in place of "its affiliated publications," as follows: "Hollywood Advertiser."

Article I—eliminated.

Article II—Guild Shop—eliminated.

Article III—Classifications

1. To those excluded should be added part time employees who individually average less than 20

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

hours per week in the employ of the publisher, correspondents, and employees of the advertising and promotion departments who may in the course of their regular duties in those departments, handle news of church, resorts, schools, real estate, finance, automobile business, home economics, promotional features and fashions.

Article IV—Salaries

(a) Editorial Employees

Less than one year	\$20.00
Over one year	25.00
Over two years	30.00
Over three years	35.00
Over four years	40.00
Over five years	45.00

Women Reporters, same as above except top minimum for more than three years shall be \$35.00.

(b) Office Boys

Less than one year	\$16.50
Over one year	18.00
Over two years	20.00

Article IV

2. eliminated

Article IV

3. After "general circulation," add "of 10,000 or more."

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

Article V—Five Day Week

To be so changed that the work week shall consist of either 40 hours so divided as to meet the requirements of the employee's duties or to consist of five days of eight hours each as determined by the managing editor.

It is difficult for us to make a general segregation such as was made by the Evening Herald.

Time off for "other" meals should apply to

7:30

worker reporting before 7 a. m. instead of 8 a. m.

Article VI—Over Time

Compensation for over time to be in equal time off, except upon dismissal or resignation when over time shall be paid in cash at the straight time rate.

Article VI, subdivision 2, should provide that whenever an employee has accumulated less than 8 hours over time within a 90-day period, it may be liquidated, at the option of the employee, in equal time off or carried over into the next 90-day period.

Article VI

4. Over time payable to an employee whose employment is terminated or in the event of death to be at straight rates.

Article VII—Severance Indemnity

1. Add to said subdivision the provision that nothing in this contract shall be construed to impair

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

or invade the right of the publisher to determine competency and to peremptorily discharge.

2. Severance payments to be made on the basis of:

None for less than 3 months service;

For 3 months to 6 months, two weeks dismissal notice, or one weeks dismissal indemnity at option of publisher;

After 6 months service an employee shall receive in cash his dismissal indemnity of one weeks pay for each 40 weeks of employment up to a maximum of 20 weeks pay.

Only a resignation requested by the Publisher in writing shall entitle the resigning employee to dismissal pay.

Length of service for computation of severance pay shall include only full-time service.

All loans, advances or debts to the Publisher shall be deductible from any sums due employee upon resignation or discharge.

3. Substitute for "predecessor companies," "Hollywood Citizen."

4. Eliminated.

Anything to the contrary notwithstanding, no severance indemnity shall be paid an employee if discharged for insubordination or neglect of duty.

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

Article VIII—Vacations

Limited to two weeks after one year of service, length of service to be computed from July 1st of preceding year, with an allowance of 1/6th of a six-day working week for each month of employment.

Article IX—Sick Leave

Sick leave shall be allowed on the same basis as vacations, extendable at the option of Publisher.

Article X—Limitation of Apprentices — eliminated

Article XI—Expenses

1. Necessary working equipment to be supplied by the Publisher excepting where employee may desire to use his own equipment. Mileage to be computed at the rate of 5¢ per mile for the first 100 miles in any one week, at the rate of 4¢ per mile for all over 100 miles in any one week.

Article XII—Miscellaneous

2. Eliminated
3. "no reduction of personnel" to be stricken.
4. Eliminated
5. Eliminated
7. Eliminated
9. Eliminated

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

11. Meetings of Guild on the premises to be held under circumstances so as not to interfere with the work of employees who have work to do.

12. Eliminated

13. Agreement to be effective until July 1, 1938; terms to be retroactive to January 3, 1938.

VA 6639

315 Currier Bldg

Jan. 11, 1938

Harlan G. Palmer, Publisher
Hollywood Citizen-News
Hollywood, Calif.

Dear Judge Palmer:

The negotiating committee for the Citizen-News unit of the Los Angeles Newspaper Guild has received from the Unit the following letter:

“Editorial department members of the Hollywood Citizen-News Guild shop have examined the changes proposed by the management in the basic Guild contract which you submitted in their behalf on Dec. 22, last.

“The Guild members express themselves as being at a loss to understand the attitude of the management on many of the points involved. They feel that, for the sake of intelligent action

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

on the counter-proposals, they require detailed explanations from the management.

“With the end in view of soliciting such explanations, may we suggest, then, that you arrange a second contract meeting with the Citizen-News executives as quickly as possible.”

In conformity with the instructions of the unit, may we request an early meeting with yourself and your executives at which time we may inquire into the position of the management in regard to certain counter-proposals? We would appreciate an appointment as early as is convenient to the management of the Citizen-News.

Cordially yours,

C. H. GARRIGUES

for the committee

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

Hollywood
Citizen-News
1545 North Wilcox Avenue
Hollywood, California

Hollywood 1234

January 12, 1938

Mr. C. H. Garrigues,
Los Angeles Newspaper Guild,
315 Currier Bldg.,
Los Angeles, Calif.

Dear Garrigues:

We expected and appreciate the privilege you accord us to present to our employees our position in reference to the proposed Guild contract submitted to us. How would Friday of this week at five o'clock be for such a purpose?

Yours very truly,

HARLAN G. PALMER (signed)

HGP:ds

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

Hollywood
Citizen-News
1545 North Wilcox Avenue
Hollywood, California

HOLLYWOOD 1234

February 9, 1938

Los Angeles Newspaper Guild,
316 Currier Bldg.,
Los Angeles, California.

Gentlemen:

Attention: C. H. Garrigues, Executive Secretary

Having given study and thought to the arguments advanced and contentions made by the negotiators for Hollywood Citizen-News Guild Members in support of their proposed contract and in opposition to the proposals made by us under date of January 4, 1938, we submit herewith an outline of a new proposal directed to your original proposal which has been used as the basis of discussions.

Yours very truly,

THE CITIZEN-NEWS COMPANY

By HARLAN G. PALMER

General Manager

HGP/T

Encl. 2.

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

Opening paragraph should read in place of "its affiliated publications," as follows: "Hollywood Advertiser."

Article I—eliminated.

Article II—Guild Shop—eliminated.

Article III—Classifications

1. To those excluded should be added part-time employees who individually average less than 20 hours per week in the employ of the publisher, correspondents, and employees of the advertising and promotion departments who may, in the course of their regular duties and assignments in those departments, handle news or publicity items or photographic material.

2. (a) Reporters, etc., except as in (b) and (c) below.

(b) Society and Club Editor.

(c) Librarians, assistant editors, reporters on society, clubs, organizations, schools, churches obituaries, hotels and travel.

(d) Office Boys

Article IV—Salaries

(a) Desk Men and Reporters:

Less than one year	\$20.00
Over one year	25.00
Over two years	30.00
Over three years	35.00
Over four years	40.00
Over five years	45.00

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

(b) Top minimum, after four years, 40.00

(c) Top minimum, after three years, 35.00

(d) Office Boys

Less than one year	\$16.50
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Over one year	18.00
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Over two years	20.00
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Article IV

2. eliminated

3. After "general circulation," add "of 5,000 or more."

Article V—Five Day Week

Work week shall consist of either 40 hours so divided as to meet the requirements of the employee's duties or to consist of five days of eight hours each as determined by the managing editor after consultation with affected employees.

Article VI—Over Time

Compensation for over time to be in equal time off, or equal pay, at the option of the Publisher, except upon dismissal or resignation or death when over time shall be paid in cash at the straight time rate.

Article VI—subdivision 2, should provide that whenever an employee has accumulated less than 8 hours over time within a 90-day period, it may be

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

liquidated, at the option of the employee, in equal time off or carried over into the next 90-day period.

Article VII—Severance Indemnity

1. Add to said subdivision the provision that nothing in this contract shall be construed to impair or invade the right of the Publisher to determine competency and to peremptorily discharge.

2. Severance payments:

After 6 months service an employee shall receive in cash dismissal indemnity of one weeks pay for each year of service to and including five years and one weeks pay for each thirty weeks of service thereafter up to a maximum of 26 week's pay.

A resigning employee shall not be entitled to dismissal pay excepting when the resignation is requested by the Publisher in writing.

Length of service for computation of severance pay shall include only full-time service.

All loans, advances, or debts to the Publisher shall be deductible from any sums due employee upon resignation or discharge.

Article VII

3. Substitute for "predecessor companies," Hollywood Citizen."

4. eliminated

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

No severance indemnity shall be paid in the event of suspension of publication or discharge for gross misconduct or wilful breach of duty.

Article VIII—Vacations

Limited to two weeks after one year of service, length of service to be computed from July 1st of preceding year to July 1 of current year, with an allowance of 1/6th of a six-day week for each month of employment. (For example: Ten months of service would entitle employee to 1 2/3 week of vacation)

Article IX—Sick Leave

Sick leave shall be allowed on the same basis as vacations, extendable at the option of Publisher.

Article X—Subdivisions 1, 2 and 3,—eliminated.

Article XI—Expenses

1. Necessary working equipment to be supplied by the Publisher excepting where employee may desire to use his own equipment. Mileage to be computed at the rate of 7¢ per mile for the first 40 miles in any one week, and at the rate of 3¢ per mile for all over 40 miles in any one week.

Article XII—Miscellaneous

2. eliminated

3. “no reduction of personnel” to be stricken.

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

4. eliminated

5. eliminated

7. eliminated

9. eliminated

11. Meetings of Guild on the premises to be held under circumstances so as not to interfere with the work of employees who have work to do.

12. eliminated.

13. Agreement to be effective the first week following execution and to continue until July 1, 1938.

Feb. 23, 1938

Harlan G. Palmer, Publisher
Hollywood Citizen-News
Hollywood, Calif.

Dear Judge Palmer:

I feel that I must apologize for our failure to send you the outline of the Guild's present position which we promised you at our last meeting.

I imagine you realize that the amount of work incident to the critical situation at Glendale has made it extremely difficult for the negotiating committee to give the Hollywood negotiations the attention they deserve.

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

The Citizen-News unit has met and considered the matters involved. As soon as the decisions reached can be digested, they will be transmitted to you.

Sincerely yours,

C. H. GARRIGUES

GUILD NOTICE

March 5, 1938

Following are the increases in weekly earnings of employes of the Glendale News-Press resulting from the recent negotiations with the Los Angeles Newspaper Guild:

EDITORIAL

Name	Position	Increase	Name	Position	Increase
Lynd	Desk	\$5.50	Goshorn	Reporter	\$4.50
Hushaw	Desk	8.00	Wathey	Reporter	6.25
Sprague	Reporter	7.25	Lill	Ch. Ed.	7.50
Borio	Sub. Ed.	12.50	Sinks	Soc. Ed.	3.00
Curtis	Soc. Rptr.	5.00	Vaughn	Soc. Rptr.	8.00
Park	Spt. Ed.	10.50	Kuest	Spt. Rptr.	9.25
Dunn	Off. Boy	3.00	Darrow	Sub. Rptr.	9.00
Wells	Photo	3.75			

TOTAL INCREASES: Equal to 23 per cent of total payroll.

DISPLAY

Kellogg	Salesman	1.00	Cobley	Salesman	7.25
Blakey	Salesman	8.75	Sanders	Salesman	7.25
O'Kell	Salesman	6.00	Dewar	Salesman	3.00
Resh	Salesman	5.25	Parsons	Salesman	5.00
Power	Desk	2.00	Ostendorf	Desk	4.50
Rice	Proof Boy	4.25	Wheeler	Proof Boy	3.75

TOTAL INCREASES: Equal to 14 per cent of total payroll.

(More)

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

March 9, 1938

Harlan G. Palmer, General Manager
Hollywood Citizen-News
Hollywood, Calif.

Dear Judge Palmer:

In conformity with your suggestion, the following is an attempt to set forth the present position of the Guild in regard to the proposed editorial department contract.

We must point out again, however, that it is impossible to consider any single clause of a labor contract except in relation to all other clauses. Primarily, the Guild seeks to establish fair wages, shorter hours and a measure of job security for all its members. Each of the provisions originally proposed by the Guild is designed to accomplish one or another of these purposes. As we conceive it, it is the purpose of these negotiations to select from the provisions proposed by the management and those proposed by the Guild such clauses as will give the greatest possible advantage to the employes with the least possible interference with or expense to the management.

From such a viewpoint, negotiations become the selection of alternatives and any attempt on the part of the Guild to impose upon the management any one of several alternative methods of achieving a

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

given result would seem an arbitrary act entirely out of harmony with the spirit of these negotiations.

The following proposals, then, must be considered as setting forth the Guild's position in regard to alternative methods of obtaining a desired result. In many cases the Guild may be indifferent as to the method but in every case it is firm in its conviction that the result must be achieved by one or another of the methods proposed.

I. Guild Shop—Severance Pay

The Guild believes that the contract must include either a Guild Shop provision with proper limitation of apprentices and limited severance pay or adequate, unrestricted severance pay as alternative methods of achieving a measure of job security.

(a) Guild Shop: The Guild Shop, with apprenticeship limitations, represents an attempt to achieve job security through a method similar to that of the mechanical craft unions. Since the Guild does not attempt to exercise "job control" by reviewing either hiring or dismissal as do mechanical unions, it proposes a limited severance pay for discharged employes in lieu of the right to review dismissals.

(b) Severance Pay:

By "adequate" severance pay is meant the severance pay schedule in effect on other Los Angeles papers which is also approximately the schedule prevailing through the Scripps-Howard and Hearst

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

chains. The Unit does not consider the management's recent proposal for an uneven ratio of severance pay to be fully adequate but is willing to accept this proposal, as a concession to the management, if this concession will help to hasten a mutually satisfactory agreement.

By "unrestricted" severance pay is meant severance pay in event of discharge for any cause. The Guild cannot accept a provision which would deprive an employe of severance pay merely because of an allegation that he had been guilty of misconduct or negligence. Where it shall appear that an employe has affirmatively sought his own discharge in order to collect severance pay, the Guild will consider such act on the part of the employe as equivalent to resignation and will waive severance pay in such cases. The Guild believes that such clarification as to the intent of a contract should be set forth in an agreement collateral to the contract.

II. Five Day Week

The Guild members on the Citizen-News are unanimously of the opinion that the five-day week can be established on this paper at little or no additional cost. Members have considered the demands of their work carefully and believe that only a slight shifting of assignments would be necessary in order to

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

establish a five-day week. While the negotiating committee does not feel that the matter of individual assignments is a proper subject for negotiations, we will be glad to call upon our members to tell the result of their own investigation at our next conference if the management should so request.

Overtime: We are substantially in accord on overtime provisions except that the Guild cannot well accept a provision permitting payment for overtime in "equal pay". Because the Guild is desirous of spreading the work rather than piling up overtime money for individual members, we have been willing to abandon the usual claim of overtime pay on the basis of time-and-one-half and give the management of either paying time-and-one-half or giving equal time off.

III. Wages

For employes in Classification (a) the Guild can see no justification for the establishment of a scale lower than that prevailing on other Los Angeles newspapers.

It has been the practice of the Citizen News in the past to pay salaries equal to those on downtown papers. Its present salaries are equal to those established by the so-called Publishers' Posting which established prevailing scales in Los Angeles until the recent Guild contracts established a new scale. As a result of this policy, we must assume, the Citi-

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

zen-News has assembled a staff equal in average ability to the staffs of downtown papers. Members of this staff cannot believe that the management now seeks to reduce them to some sort of sub-marginal classification of less than average competence.

(b) and (c) The Guild is willing to concede the possibility that, at present, there may exist on the Citizen-News some justification for a sub-marginal classification for employes who perform only a special sort of work.

We believe that the proposed classification, however, is too broad and the top minimums suggested are too low. Nor do we believe it is wise to establish scales for heads of sub-departments since it seems preferable that a scale should be established for employes and that those who are given especial responsibilities should be left free to bargain in their own behalf for salaries above the minimum. Accordingly, if the management agrees with us on Classification (a), we would accept the following scales and classifications in addition thereto:

(b) Editorial employes handling exclusively news of Society and Clubs, Churches (and possibly some other types, to be agreed upon)—Top Minimum, after four years, \$40.

(c) Librarians, Top minimum, after three years, \$35.

The scale for office boys is accepted.

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

If the management agrees with us in respect to these salaries, we will be willing to waive our proposal for a level increase in pay for employes not affected by the minimums. It will be noted that this offer, together with the proposal for classification (b) fixes a somewhat lower salary schedule than that prevailing on downtown papers. We believe that if there does exist a justification for a differential between Hollywood and downtown salaries this method provides a more equitable method of establishing such a differential than does a proposal to establish a general scale lower than the prevailing scale.

IV. Expenses

It is understood that the Guild proposal is acceptable to the management except as to the specific rate for mileage.

The management's proposal for mileage is, under the circumstances, generally one which the Guild can accept except that it appears to discriminate against certain employes who customarily use their cars more than the average. If this effect can be eliminated, the management's suggestion can be accepted.

V. Term of Contract

In view of the past policy of the Citizen-News in making salary adjustments on January 1 and July 1, the Guild is willing that the proposed contract should expire July 1, providing that the terms of

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

any wage increase be made retroactive to January 1. Under the same conditions, the Guild would be willing to have the contract run until January 1, 1939, with provisions for re-opening the section on wages for adjustment July 1.

VI. Classifications

As an offer to hasten the termination of these negotiations, the Guild will agree that employees who, as of January 1, 1938, were on the payroll of other departments than the editorial department are not editorial employees covered by this contract even though their work may be strictly editorial.

VII. Other Provisions

Since other provisions depend to a certain extent upon the provisions discussed above, it is impossible at this time to state finally which other provisions the Guild would insist upon retaining.

It is the understanding of the Guild, however, that except where the management has proposed the elimination of a paragraph or phrase, such paragraph or phrase is acceptable to the management. We also understand that where the management has suggested amendment only of a particular portion of a section or paragraph, the remainder of the section or paragraph is acceptable.

We trust that the above sets forth the position of the Guild with sufficient clarity and that we may

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

soon have the opportunity of a meeting looking toward an early agreement.

Yours very truly,

LOS ANGELES NEWSPAPER
GUILD

By

for the committee

Hollywood Citizen-News
1545 North Wilcox Avenue
Hollywood, California

Hollywood 1234

March 14, 1938

Mr. C. H. Garrigues,
Los Angeles Newspaper Guild,
315 Currier Bldg.,
Los Angeles, California.

Dear Mr. Garrigues:

I am asking Willis Sargent to represent us in an effort to complete a contract with the Guild in the belief that he can bring this matter to a head where I haven't the talent to do so. I am asking Mr. Sargent to contact you and arrange with you for conferences.

Yours very truly,

HARLAN G. PALMER

HGP/T

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

Los Angeles Newspaper Guild

(etc.)

315 Currier Building

(etc.)

March 16, 1938

Judge Harlan Palmer
Hollywood Citizen-News
Hollywood, Calif.

Dear Judge Palmer:

Thanks for your letter of March 14.

Inasmuch as the method of conducting negotiations was considered at some length during our previous meetings, your letter has been referred to the Citizen-News Unit by the Executive Committee.

We will notify you of the Unit's action within a day or two.

With best personal regards,

Sincerely yours,

C. H. GARRIGUES

March 19, 1938

Judge Harlan G. Palmer
Hollywood Citizen-News
Hollywood, Calif.

Dear Judge Palmer:

Your letter announcing that you have retained Mr. Willis Sargent to continue negotiations with

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

the Guild relative to a contract covering Citizen-News editorial employes has been referred to the Citizen-News Unit.

The Unit has requested that a meeting be held Tuesday March 22, at 7:30 p.m., if possible, at which time negotiations be resumed. It is the desire of the Unit that all members be permitted to attend and that nightly meetings be held thereafter until the negotiations are completed.

In view of the previous experience of the Guild with Mr. Sargent and in view particularly of certain ill-founded reports recently circulated among Citizen-News employes, the Guild requests that Mr. Sargent hereafter have no communication with any Guild representative except in the presence of the *the* Guild negotiating committee, the Unit observers and executives of the Citizen-News.

Sincerely yours,

LOS ANGELES NEWSPAPER GUILD

Citizen-News Negotiating Committee

By C. H. GARRIGUES

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

March 25, 1938

Judge Harlan G. Palmer
Hollywood Citizen-News
Hollywood, California

Dear Judge Palmer:

In accordance with your request, the Guild negotiators *mave* met twice with Mr. Willis Sargent and have discussed thoroughly with him the Guild proposals as outlined in our letter to you of March 9.

Mr. Sargent has given us his final proposal on all essential matters discussed. These proposals were not acceptable to the Guild.

The negotiating committee joins with the Citizen-News unit in the sincere belief that further discussion of the matter with Mr. Sargent would be fruitless, but cannot forbear to hope that in continued personal conferences with yourself there is still a chance of a satisfactory adjustment of our differences.

May we express our hope that you will give further study to our letter of March 9 and continue to meet with us in order that we may both try again to work out an amicable settlement in the same friendly spirit which proved so fruitful in the past.

Yours very truly,

LOS ANGELES NEWSPAPER GUILD

Citizen-News Negotiating Committee

By.....

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

Hollywood Citizen-News
1545 North Wilcox Avenue
Hollywood, California

Hollywood 1234

March 28, 1938

Los Angeles Newspaper Guild,
315 Currier Bldg.,
Los Angeles, Calif.

Gentlemen:

Replying to your letter of March 25, in which you say: "Mr. Sargent has given us his final proposal on all essential matters discussed. These proposals were not acceptable to the Guild."

Today Mr. Sargent and I concluded a hearing before the National Labor Relations Board. Within the next few days we shall confer and will again communicate with you.

I appreciate the expression of friendly feeling. I sincerely hope that regardless of honest differences of opinion, it will continue.

Yours very truly,

HARLAN G. PALMER

HGP/T

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

Western Union

Hollywood Calif

April 2 1938

C H Garrigues

2034 Oak Glen Pl

Los Angeles Calif

Sargent and I could meet with Guild next Tuesday night If not satisfactory please contact me for another day

HARLAN G PALMER

(copy)

Hollywood Citizen-News

1545 North Wilcox Avenue

Hollywood, California

HOLLYWOOD 1234

April 16, 1938

Los Angeles Newspaper Guild,

Negotiating Committee,

Los Angeles, California.

Attention: Mr. C. H. Garrigues

Re: Hollywood Citizen-News Negotiations.

Gentlemen:

At our last meeting at the plant on the evening of Wednesday, April 6th, it was our understanding that you desired us to reduce our offer to writing

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

and present the same to you. In compliance with that suggestion, we hereby enclose two copies of the same.

Pursuant to the agreement we have had throughout, we are not to be bound by any part of this proposal unless it is accepted in its entirety by you.

Yours very truly,

THE CITIZEN-NEWS COMPANY

By HARLAN G. PALMER

HGP/T

AGREEMENT

This Agreement, made and entered into at Los Angeles, California, this day of, 1938, by and between The Citizen-News Company (hereinafter referred to as "the Publisher") and the Los Angeles Newspaper Guild (a local, chartered by the American Newspaper Guild, hereinafter referred to as "the Guild"), acting for itself and on behalf of all the employees in the Editorial Department of The Hollywood Citizen-News and Hollywood Advertiser, except as hereinafter provided.

Witnesseth:

That in consideration of the mutual promises and agreements hereinafter agreed upon, it is understood and agreed by and between the Publisher and the Guild, as follows:

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

Article I—The Publisher does hereby recognize
[authorized]*

the Guild as the appropriate agency of its editorial employees for purposes of collective bargaining, except that with regard to any matters not covered by this agreement, it is agreed that an individual employee and the Publisher shall have the right to bargain with each other.

Article II—The Publisher retains full power and discretion, save as limited or prohibited by law, to employ or dismiss employees and also as to the number to be employed in any department, or as to the duties of each, and may merge, increase, reduce or eliminate departments and transfer any employee from one department to another without the violation shall receive a weekly rate of pay of not less than that set forth as follows:

(a) Less than one year.....	\$20.00
Over one year	25.00
Over two years	30.00
Over three years	35.00
Over four years	40.00
Over five years	45.00
(b) Top minimum, after four years.....	40.00
(c) Top minimum, after three years.....	35.00
(d) Top minimum, after two years.....	25.00
(e) Less than one year.....	16.50
Over one year.....	18.00
Over two years.....	20.00

*Matter enclosed in brackets [] in this paper written in pencil.

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

2. The basis for computing experience, within the meaning of the above, shall be employment calculated upon the basis of time spent on the staffs of daily newspapers of general circulation of 5,000 or more, or the bureaus of established national, or local news or photo services, in the same line of employment for which said employee is hired by the Publisher.

3. Nothing in this agreement shall be deemed to affect rates of pay now or hereafter received by employees in excess of the minimum scale herein provided.

Article V—Five Day Week.

[8 hrs. within 9]

[establish]

Publisher agrees to recognize the five-day, 40 hour week for editorial employees and to arrange a working schedule which shall provide for such a five-day, 40 hour week, except for suburban representatives [who may work a 40 hr. schedule within
empl.

a 6-day week. Working days for all others shall be 8 hrs. within a 9 hour spread, except that employees in the sports and drama dept. may work 8 hours within such a spread as their duties may require.] All employees shall be entitled to reasonable time off for mid-day lunch or for other meals in those cases where the employee reports for duty before 8 o'clock A.M. or works later than 6 o'clock

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

P.M. It is in letter or in spirit of any portion of this agreement.

Article III.—Classification

1. The Editor, Managing Editor and City Editor shall be excluded from the provisions of this agreement. Also excluded shall be part-time employees and correspondents who individually average less than 20 hours per week in the employ of Publisher, and employees of the Advertising and Promotion Departments who may, in the course of their regular duties and assignments in those departments, handle news or publicity items or photographic material. Notwithstanding the provisions of Article II, no position on the Editorial Department payroll at the date of entering into this agreement shall be transferred to any other department payroll during the life of this agreement.

2. In the application of this agreement, all employees shall be divided into the following classifications:

(a) Reporters, Desk Men, Rewrite Men and Copy Readers, [Artists & Photogs & editorial rewrite.]

(b) Society and Club Editor.

(c) Librarians, Assistant Club and Society Editors, Assistant Sports Editors, Assistant Drama Editors, Reporters on Schools, Churches and Obituaries.

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

(d) ~~Secretaries.~~

(e) Office Boys.

Article IV.—Minimum Salaries

1. Employees in the foregoing classifications agreed that time off for meals, as herein provided, shall not be included within the working day.

Article VI.—Overtime

1. Compensation for overtime shall be at the
[in cash]

rate of time and a half, or in equal time off [in blocks of 8 hrs.] within 90 days, at the option of the Publisher, except that upon dismissal or resignation or death, any overtime shall be paid in cash at time and a half.

~~[8 hrs. each,~~ not less than]

2. If an employee has not taken his accumulated overtime prior to the termination of his employment with the Publisher, he shall be compensated for such overtime in cash at that time. In the event of the death of an employee, the Publisher shall pay to his estate, in cash, an amount equal to the amount of overtime, at time and a half, to which the employee would have been entitled.

3. In carrying out the provisions of this Article, it is agreed that each employee who is required to work overtime shall obtain from the Publisher or his representative who is responsible for the assign-

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

ment, a memorandum showing the date and the number of hours due him, a copy of which shall be filed with the party making said assignment.

Article VII.—Severance Indemnity

1. Upon dismissal, an employee, upon request, shall receive a written notice from the Publisher or his agent stating the reason or grounds for dismissal, but this shall not be construed to in any wise impair or invade the right of the Publisher to determine competency or to pre-emptorily discharge any employee.

2. An employee who is dismissed after six months service, except as above, shall receive severance indemnity of one (1) week's pay for each year of service, up to and including five (5) years, and in addition thereto, one (1) week's pay for each 30 weeks of service thereafter, but the total severance indemnity shall not exceed a maximum of twenty-six (26) weeks' pay. All loans, advances or debts to the Publisher shall be deducted from any sums due an employee upon his dismissal.

No severance indemnity shall be paid to an employee who resigns or who shall have affirmatively brought about his discharge in order to collect severance pay.

3. Length of service for computation of severance pay shall be deemed to include only full-time service, and years of service shall be deemed to in-

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

clude only the total consecutive years the employee was employed on The Hollywood Citizen-News and The Hollywood Citizen.

4. Leaves of absence, granted by the Publisher, shall not count as breaks in continuous service, although the time spent on such leaves shall not be considered service time.

Article VIII—Vacations

1. Employees shall be entitled to an annual vacation of two (2) weeks with full pay after one (1) year of service, the length of service to be computed from July 1st of the preceding year to July 1st of the current year. Where the employee has not been employed a full year, he shall be entitled to a vacation, the duration of which shall be computed by allowing him $\frac{1}{6}$ th of a six-day week for each month of employment—for example, ten months of service would entitle an employee to a vacation of $1\frac{2}{3}$ weeks.

2. An employee shall not be required to accept a vacation any time except between May 15th and September 30th.

Article IX.—Sick Leave

1. Sick leave shall be allowed on the same basis [except that] as vacations, unless the Publisher, in his discretion, may extend the period in any individual case.

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

2. No deduction from overtime already credited or to be credited to the employee shall be made for sick leave allowed by the Publisher.

Article X.—Expenses and Equipment

1. Necessary working equipment is to be supplied by the Publisher, except where the employee may desire to use his own equipment. Employees using their own cars on assignments shall be allowed mileage at the rate of 7¢ per mile for the first 40 miles in any one week, [plus such compensation over 40 miles as may be individually agreed upon.] ~~and at the rate of 3¢ per mile for all over 40 miles in any one week.~~

2. The Publisher shall reimburse employees for any damages to their clothing incurred in the course of their employment without negligence on their part. The Publisher shall pay for the reasonable cost of necessary meals when employees are working overtime by assignment. In the event of the death of an employee, all unpaid expenses to which the employee would otherwise be entitled by this Article shall be paid to said employee's estate.

Article XI.—Miscellaneous

1. *Syndicate Rights.* When the management sells the product of an employee for publication outside The Citizen-News Company organization, a mutually agreeable payment shall be made to the employee in addition to his weekly wage.

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

2. Guarantees. There shall be no reduction in the wage scale of any employee as the result of this agreement or of the negotiations leading to its execution, but this shall not be construed to limit the powers of the Publisher, as set forth in Article II or otherwise herein.

3. Outside Activities. Employees of the Publisher shall be free to engage in any activities on their own time which do not consist of services performed for publications in direct competition with the Publisher, provided that without permission, no employee shall exploit his connection with the publisher in the course of such activities.

4. The Publisher agrees not to have or enter into any agreement with any other employer, binding such other employer not to offer or give employment to employees of the Publisher.

5. The Publisher agrees that no employee shall be required to have published under his own name any material containing an expression of opinion not in conformity with his own opinions.

6. The Guild is given the privilege of posting notices of its meetings upon the bulletin board now maintained in the editorial offices of the Publisher, to collect dues from its members on the premises of the publisher, and to hold Unit meetings on the premises of the Publisher at times when the employees attending the same are off duty, but such meetings are to be held under such circumstances as do not interfere with the work of other employees.

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

7. This agreement is to become effective the week following its execution and is to continue up to and including June 30, 1939, [with the further provision that the Guild shall have the right to reopen Sec. 4 for the period from Jan. 1 to June 30, 1939.] with the right and privilege on the part of either the Guild or the Publisher at any time within 60 days prior to that date, to initiate negotiations for a new agreement to take effect at the expiration of the present agreement. [Open for salary adjustments.]

THE CITIZEN-NEWS COMPANY,
a corporation

By

LOS ANGELES NEWSPAPER

GUILD, a Local of the American
Newspaper Guild,

By

April 21, 1938.

Judge Harlan G. Palmer,
Hollywood Citizen-News,
Hollywood, California.

Dear Judge:

Your suggestion to me over the telephone this morning that the Hollywood Citizen-News Unit authorize a written statement of its proposed

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

changes in the Management's offer of April 16, was conveyed by the Bargaining committee to the Citizen-News Unit officers.

As a result, there has been delivered to the Bargaining Committee a memorandum, signed by the members of the Unit, instructing the Committee to make another attempt to obtain a meeting with you.

The Unit has suggested that such a meeting be at a time convenient to you, but respectfully urges that as early a time as possible be set. Should it be convenient to hold a meeting Friday evening, April 22, the Bargaining Committee could be notified by telephoning either me' at RIchmond 4141 or Miss Daniel at HIllside 7391.

As I outlined in our telephone conversation this morning, Judge, the Citizen-News Unit has indicated a belief that the April 16 proposals form a basis for what could be an acceptable agreement, provided certain clarifications and some specific changes were made.

It is because the Unit feels that these clarifications and changes could be discussed far more satisfactorily in a regular bargaining session than in an exchange of communications that this new appeal to you for such a session is made.

Sincerely,

PHILIP M. CONNELLY

(for the Bargaining Committee)

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

Hollywood Citizen-News
1545 North Wilcox Avenue
Hollywood, California

Hollywood 1234

April 22, 1938

Mr. Philip M. Connelly,
For the Bargaining Committee,
Los Angeles Newspaper Guild,
c/o Herald Express,
Box 1448 Arcade Annex,
Los Angeles, California.

Dear Sir:

We have not been otherwise notified but we assume that the letter from you is authority for us to address you instead of Mr. Garrigues in reference to the bargaining of the Newspaper Guild with the Citizen-News.

You write that there are "certain classifications and some specific changes" in our proposal of April 16, which the Hollywood Citizen-News Unit seeks, and that you request another bargaining session.

At our last bargaining session you will recall that you left the meeting declaring that you would not remain because of references made by me to the Glendale posting. Following your departure our suggestion that we submit a proposal in writing was agreed to by Mr. Garrigues as spokesman.

You will recall that the meeting previous to the last one ended with the bargaining committee dis-

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

inclined toward further discussion with our representative, Mr. Sargent. This was followed by a letter to the undersigned stating that the Guild believed that "further discussion with Mr. Sargent would be fruitless", and requesting that I again meet with you. Mr. Sargent and I did meet with you, with the meeting ending as stated above.

At the start of our negotiations I sought to the best of my ability to make it clear that while I was desirous of listening to arguments advanced on behalf of the employees I intended to take no direct part in any bickerings that might be involved in a final contract.

I believe that I went to all reasonable limits to listen to the arguments and to state our position.

I have the right, which I assume you recognize, to have the man I choose bargain for me, just as the employees have every right to select whomsoever they wish to bargain for them.

Our April 16 proposal represented our conclusions as to what we could do, after the most careful consideration of all factors and of all the arguments made on behalf of the employees. We went the limit in granting concessions beyond those to which we had already agreed. We believe that we can go no further.

I cannot see any reason why the clarifications and specific changes sought by the Unit cannot be sub-

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

mitted in writing to us. If that were done Mr. Sargent and I could carefully consider them and decide whether or not there is any possibility of our getting together.

Mr. Sargent will continue to represent me if a further meeting is necessary. I am very desirous of avoiding the unpleasant situations that have arisen at several of the negotiating sessions. I believe that the Unit could further this end by submitting their demands in writing.

Yours very truly,

HARLAN G. PALMER,

Publisher, The Citizen-News

HGP/T

[May 2, 1938]

Hollywood Citizen-News

Hollywood, California

Dear Judge Palmer,

At your request in order to clear up the few remaining points which have not been agreed to between us, we are indicating the matters on which the unit still seeks clarification.

First the period for which the proposed contract would run the unit believes should not apply to all provisions in the contract.

In regard to classifications the unit is not ready to accept the system set up in the proposed con-

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

tract. We believe that a simpler classification which we could work out with you in a very short time would be more conducive to an efficient operation of the contract.

The inclusion of a clearer restriction on salary reductions subsequent to the signing of the contract is one of great importance to the unit. The unit also believes that the contract should not mention a reduction in mileage allowance after a specified number of miles.

Then there are instances of wording which we believe should be clarified or inserted; for example, "recognizing" the five-day week; the omission of the words "in cash" in the section on overtime pay, and the lack of a statement that the eight-hour day shall be within a nine-hour spread.

With reference to your inquiry about Mr. Connelly's authority for writing the last letter, the executive committee has designated him as chairman of the negotiating committee. It is the practice of all our negotiating committees to have a letter typed by any member of the committee who happens to have the time.

As Mr. Connelly mentioned in his letter, the Citizen-News unit has indicated a belief that the April 16 proposals form a basis for what could be an acceptable contract, provided clarification and changes were made.

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

It is the hope of the negotiating committee as well as the unit that such changes can be made as quickly as possible so that we shall have a contract ready to sign in the very near future.

Very truly yours,

URCEL DANIEL

(For the Negotiating Committee)

[May 9]

AGREEMENT

This Agreement, made and entered into at Los Angeles, California, this — day of —, 1938, by and between The Citizen-News Company (hereinafter referred to as "the Publisher") and the Los Angeles Newspaper Guild (a local, chartered by the American Newspaper Guild, hereinafter referred to as "the Guild"), acting for itself and on behalf of all the employees in the Editorial Department of The Hollywood Citizen-News and Hollywood Advertiser, except as hereinafter provided.

WITNESSETH:

That In Consideration of the mutual promises and agreements hereinafter agreed upon, It Is Understood and Agreed by and between the Publisher and the Guild, as follows:

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

Article I—The Publisher does hereby recognize the Guild as the authorized agency of its editorial employees for purposes of collective bargaining, except that with regard to any matters not covered by this agreement, it is agreed that an individual employee and the Publisher shall have the right to bargain with each other.

Article II—The Publisher retains full power and discretion, save as limited or prohibited by law, to employ or dismiss employees, including that to determine competency or to pre-emptorily discharge any employee, and also as to the number to be employed in any department, or as to the duties of each, and may merge, increase, reduce or eliminate departments and transfer any employee from one department to another without the violation in letter or in spirit of any portion of this agreement.

Article III—Classification.

1. The Editor, Managing Editor and City Editor shall be excluded from the provisions of this agreement. Also excluded shall be part-time employees and correspondents who individually average less than 20 hours per week in the employ of Publisher, and employees of the Advertising and Promotion Departments who may, in the course of their regular duties and assignments in those departments, handle news or publicity items or photographic material. Notwithstanding the provisions of Article II, no

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

position on the Editorial Department payroll at the date of entering into this agreement shall be transferred to any other department payroll during the life of this agreement.

2. In the application of this agreement, all employees shall be divided into the following classifications:

(a) Reporters, Desk Men, Editorial Writers, Artists, Rewrite Men, Copy Readers and Photographers.

(b) Office Boys.

Article IV—Minimum Salaries

1. Employees in the foregoing classifications shall receive a weekly rate of pay of not less than that set forth as follows:

(a) Less than one year	\$20.00
Over one year	25.00
Over two years	30.00
Over three years	35.00
Over four years.....	40.00
Over five years	45.00
(b) Less than one year	16.50
Over one year	18.00
Over two years	20.00

2. The basis for computing experience, within the meaning of the above, shall be employment cal-

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

culated upon the basis of time spent on the staffs of daily newspapers of general circulation of 5,000 or more, or the bureaus of established national, or local news or photo services, in the same line of employment for which said employee is hired by the Publisher.

3. The present salary of any employee in excess of the minimums herein established shall not be reduced during the term of this agreement, but this shall not be deemed to be a limitation upon the Publisher's right to dismiss.

Article V—Five Day Week

Publisher agrees to establish the five-day, 40-hour week for editorial employees and to arrange a working schedule which shall provide for such a five-day, 40-hour week, except for suburban representatives, who may work a 40 hour schedule within a six-day week. A working day for all others shall consist of 8 hours within a 9 hour spread. All employees shall be entitled to reasonable time off for mid-day lunch or for other meals in those cases where the employee reports for duty before 8 o'clock A.M. or works later than 6 o'clock P.M. It is agreed that time off for meals, as herein provided, shall not be included within the working day.

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

Article VI.—Overtime

1. Compensation for overtime shall be at the rate of time and a half in cash, or in equal time off within 90 days, at the option of the Publisher, except that upon dismissal or resignation or death, any overtime shall be paid in cash at time and a half.

2. If an employee has not taken his accumulated overtime prior to the termination of his employment with the Publisher, he shall be compensated for such overtime in cash at that time. In the event of the death of an employee, the Publisher shall pay to his estate, in cash, an amount equal to the amount of overtime, at time and a half, to which the employee would have been entitled.

3. In carrying out the provisions of this Article, it is agreed that each employee who is required to work overtime shall obtain from the Publisher or his representative who is responsible for the assignment, a memorandum showing the date and the number of hours due him, a copy of which shall be filed with the party making said assignment.

Article VII.—Severance Indemnity

1. Upon dismissal, an employee, upon request, shall receive a written notice from the Publisher or his agent stating the reason or grounds for dismissal.

2. An employee who is dismissed after six months service, except as hereinafter provided, shall receive

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

severance indemnity of one (1) week's pay for each year of service, up to and including five (5) years, and in addition thereto, one (1) week's pay for each 30 weeks of service thereafter, but the total severance indemnity shall not exceed a maximum of twenty-six (26) weeks' pay. All loans, advances or debts to the Publisher shall be deducted from any sums due an employee upon his dismissal. No severance indemnity shall be paid to an employee who resigns or who shall have affirmatively brought about his discharge in order to collect severance pay.

3. Length of service for computation of severance pay shall be deemed to include only full-time service, and years of service shall be deemed to include only the total consecutive years the employee was employed on The Hollywood Citizen-News and The Hollywood Citizen.

4. Leaves of absence, granted by the Publisher, shall not count as breaks in continuous service, although the time spent on such leaves shall not be considered service time.

Article VIII.—Vacations

1. Employees shall be entitled to an annual vacation of two (2) weeks with full pay after one (1) year of service, the length of service to be computed from July 1st of the preceding year to July 1st of the current year. Where the employee has not been

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

employed a full year, he shall be entitled to a vacation, the duration of which shall be computed by allowing him $1/6$ th of a six-day week for each month of employment—for example, ten months of service would entitle an employee to a vacation of $1-2/3$ weeks.

2. An employee shall not be required to accept a vacation any time except between May 15th and September 30th.

Article IX.—Sick Leave

1. Sick leave shall be allowed on the same basis as vacations, except that the Publisher, in his discretion, may extend the period in any individual case.

2. No deduction from overtime already credited or to be credited to the employee shall be made for sick leave allowed by the Publisher.

Article X.—Expenses and Equipment

1. Necessary working equipment is to be supplied by the Publisher, except where the employee may desire to use his own equipment. Employees using their own cars on assignments shall be allowed mileage at the rate of 7¢ per mile for the first 40 miles in any one week, plus such additional compensation for mileage over 40 miles in any one week as may be individually agreed upon.

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

2. The Publisher shall reimburse employees for any damages to their clothing incurred in the course of their employment without negligence on their part. The Publisher shall pay for the reasonable cost of necessary meals when employees are working overtime by assignment. In the event of the death of an employee, all unpaid expenses to which the employee would otherwise be entitled by this Article shall be paid to said employee's estate.

Article XI.—Miscellaneous

1. *Syndicate Rights.* When the management sells the product of an employee for publication outside The Citizen-News Company organization, a mutually agreeable payment shall be made to the employee in addition to his weekly wage.

2. *Guarantees.* There shall be no reduction in the wage scale of any employee as the result of this agreement or of the negotiations leading to its execution, but this shall not be construed to limit the powers of the Publisher, as set forth in Article II or otherwise herein.

3. *Outside Activities.* Employees of the Publisher shall be free to engage in any activities on their own time which do not consist of services performed for publications in direct competition with the Publisher, provided that without permission, no employee shall exploit his connection with the publisher in the course of such activities.

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

4. The Publisher agrees not to have or enter into any agreement with any other employer, binding such other employer not to offer or give employment to employees of the Publisher.

5. The Publisher agrees that no employee shall be required to have published under his own name any material containing an expression of opinion not in conformity with his own opinions.

6. The Guild is given the privilege of posting notices of its meetings upon the bulletin board now maintained in the editorial offices of the Publisher, to collect dues from its members on the premises of the Publisher, and to hold Unit meetings on the premises of the Publisher at times when the employees attending the same are off duty, but such meetings are to be held under such circumstances as do not interfere with the work of other employees.

7. This agreement is to become effective the week following its execution and is to continue up to and including June 30, 1939, with the right and privilege on the part of either the Guild or the Publisher at any time within 60 days prior to that date, to initiate negotiations for a new agreement to take effect at the expiration of the present agreement, and with the further right on the part of the Guild to reopen negotiations pertaining to Article IV, re-

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

lating to minimum salaries for the period of the Agreement extending from January 1st through June 30th, 1939.

THE CITIZEN NEWS COMPANY,
a corporation

By
LOS ANGELES NEWSPAPER
GUILD, a Local of the American
Newspaper Guild

By

May 11, 1938

Judge Harlan G. Palmer
Hollywood Citizen News
Hollywood, California

Dear Judge Palmer,

The Executive Committee of the Guild last night reviewed the negotiations on the Hollywood Citizen-News and was pleased to note that there is only one point of difference now remaining between us.

On this point the Executive Committee, after hearing the preference of the Citizen-News Unit members, instructed the negotiating committee to propose this substitute wording for Article VI, Section 1:

"Compensation for overtime shall be at the rate of time and one-half in cash or straight time in

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

blocks of not less than eight hours, or at the rate of time and one-half in blocks of not less than four [three]*

hours after 12 noon on Saturdays, at the option of the Publisher. All overtime shall be liquidated within 90 days. Upon dismissal or resignation or death, any overtime shall be paid in cash at time and one-half."

The negotiating committee believes that in one very brief meeting we could settle this point and then sign a memorandum of agreement, pending the typing of the complete contract.

The negotiators will be able to meet with you again this Friday at the same time as last Friday. If that time is agreeable with you, will you please telephone me?

Very truly yours,

URCEL DANIEL

for the Negotiating Committee.

*Written in pencil.

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

Hollywood Citizen-News
1545 North Wilcox Avenue
Hollywood, California

HOLLYWOOD 1234

May 12, 1938

Miss Urcel Daniel,
1425 Alvarado Terrace,
Los Angeles, California.

Dear Miss Daniel:

I have been unable to reach Mr. Sargent today to see if he could meet with you tomorrow. I shall call you Friday as to this.

Yours very truly,

HARLAN G. PALMER

HGP/T

Postal Telegraph
The International System
Commercial Cables
All America Cables
Mackay Radio

1938 May 13 AM 11 27

Received at 580 W. Washington, REpublic 5505.
Form 16

S45 10—Hy Hollywood Calif 13 1110A

Miss Urcel Daniel

1425 Alvarado Terrace

This afternoon at four thirty our office satisfactory for conference.

HARLAN G. PALMER.

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

Hollywood Citizen-News
1545 North Wilcox Avenue
Hollywood, California

HOLLYWOOD 1234

May 13, 1938

Miss Urcel Daniel,
1425 Alvarado Terrace,
Los Angeles, California.

Dear Miss Daniel:

This afternoon at four-thirty is satisfactory for a conference at my office. I would appreciate confirmation or rejection at the earliest possible date.

Yours very truly,

HARLAN G. PALMER.

HGP/T

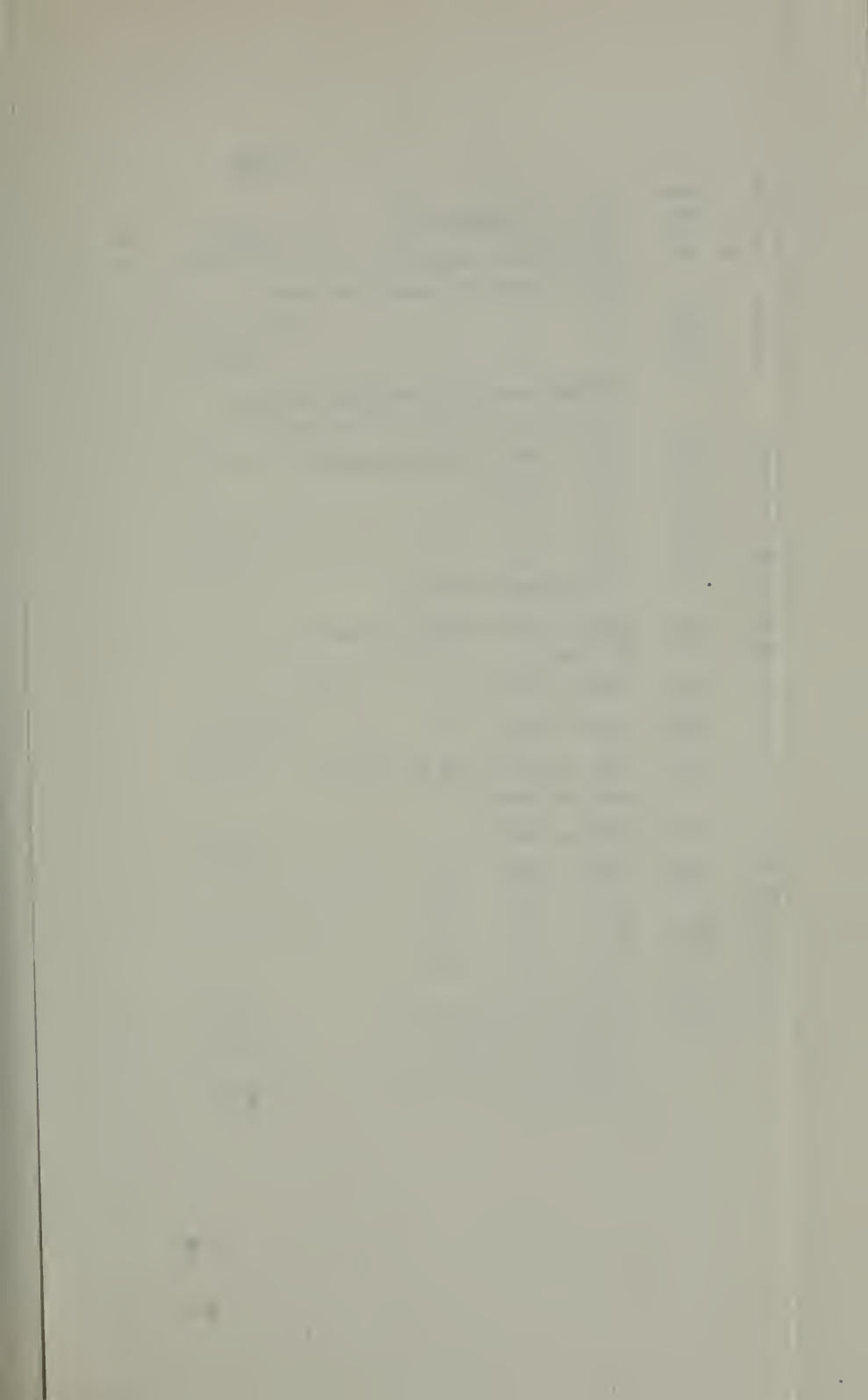
FIVE DAY, 40-HOUR WEEK SCHEDULE

Below is the 5-day, 40-hour week schedule that will become effective in the Editorial Department Monday, May 16. It is subject to revision when necessary, and I will welcome any suggestions that you have to offer.

In working it out, I have eliminated overtime in the schedules and will seek to avoid overtime generally.

The schedules for Combs and Redelings will have to vary, to allow for the fact that they will be doing relief work in the various departments.

HES.





Name	Mon- day	Tues- day	Wed- nesday	Thurs- day	Fri- day	Satur- day	Remarks
REUTER.....	Off	7-4	7-4	7-4	7-4	6-3	1 hr. lunch. Saturdays ½ hr. lunch, ½ hour breakfast
LINDSLEY.....	7-4	7-4	8-5	8-5	Off	6-3	“ “ “ “
COMBS.....	7-4	Off	7-4	7-4	7-4	6-3	“ “ “ “ Assist Sports Wed. and Thus., Drama Saturday. 1 hr. lunch Saturdays
SIMONTON.....	Off	7:30- 4:30	7:30- 4:30	7:30- 4:30	7:30- 4:30	6-3	½ hr. lunch, ½ hr. breakfast
CALKINS.....	7-4	7-4	Off	7-4	7-4	6-3	“ “ “ “
SWAN.....	7:30- 4:30	7:30- 4:30	7:30- 4:30	Off	7:30- 4:30	6-3	“ “ “ “ (Police on Weds.)
REDELINGS.....	7:30- 4:30	7:30- 4:30	Off	7:30- 4:30	7:30- 4:30	6-3	Meals as above. Relieve Speer on Fridays.
LIVINGSTON.....	8-5	Off	8-5	8-5	8-5	6-3	Meals as above
HOBART.....	8-5	8-5	8-5	8-5	8-5	Off	1 hour lunch.
EWING.....	8-5	8-5	Off	8-5	8-5	6-3	1 hr. lunch, except Sat. when meals as above.
SPEER.....	7-4	7-4	7-4	7-4	Off	7-4	Meals as above.
WESSELMANN.....	7:30- 4:30	7:30- 4:30	7:30- 4:30	7:30- 4:30	7:30- 4:30	Off	1 hour lunch.
MINISHIAN.....	7:30- 4:30	7:30- 4:30	7:30- 4:30	7:30- 4:30	7:30- 4:30	Off	“ “ “
CROW.....	Arrange own schedule as duties demand					Off	
NEWMAN.....	Arrange own schedule.			Off			
WATTS.....	Arrange own schedule.						

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

May 14, 1938.

Mel Scott:

In line with the reorganization of the Editorial department, I have been instructed to advise you that your employment will terminate with the close of today's work.

A check covering severance pay agreed to in negotiations between the Citizen-News and the Newspaper Guild, together with earned vacation pay and your pay for this week's work, will be ready Monday forenoon.

HAROLD E. SWISHER,
Managing Editor.

May 14, 1938.

Roger Johnson:

In line with the reorganization of the Editorial department, I have been instructed to advise you that your employment will terminate with the close of today's work.

A check covering severance pay agreed to in negotiations between the Citizen-News and the Newspaper Guild, together with earned vacation pay and your pay for this week's work will be ready Monday forenoon.

HAROLD E. SWISHER,
Managing Editor.

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

May 14, 1938.

Elizabeth Yeaman:

In line with the reorganization of the Editorial department, I have been instructed to advise you that your employment will terminate with the close of today's work.

A check covering severance pay agreed to in negotiations between the Citizen-News and the Newspaper Guild, together with earned vacation pay and your pay for this week's work, will be ready Monday forenoon.

HAROLD E. SWISHER,
Managing Editor.

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

(Copy)

(Believe sent via Postal) and to 926 No. Orlando Ave.

[May 15—reached May 16]

(TELEGRAM SENT AT 11:25 LAST NIGHT,
ADDRESSED TO HARLAN G. PALMER
AT HIS RESIDENCE.)

Los Angeles Newspaper Guild, on request Citizen-News Unit, tonight called strike on Citizen-News for Tuesday A.M. Stop Unit demands unconditional reinstatement of Roger C. Johnson, Mell Scott, Elizabeth Yeaman, plus contractual provision no dismissals result contract signing stop Seriously urge you meet authorized committee L.A.N.G. executive board eleven A.M. tomorrow your office for purpose peaceful adjustment. Board now in session awaiting your answer to my wire on suggested conference at 7933 West Fourth Street.

(Signed)

LOS ANGELES NEWS-
PAPER GUILD, EXECU-
TIVE BOARD

By URCEL DANIEL,

Secretary.

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

[Envelope]

Hollywood Citizen-News

Printers and Publishers

1545 N. Wilcox Ave.

Hollywood, California

Los Angeles Newspaper Guild Exec. Board,

Attention, Urcel Daniel, Secretary,

7933 West Fourth St.,

Los Angeles, Calif.

[R 214 6513 Hollywood Blvd.]*

*Written in pencil—Address crossed out.

Hollywood Citizen-News
1545 North Wilcox Avenue
Hollywood, California

HOLLYWOOD 1234

May 16, 1938

Los Angeles Newspaper Guild Executive Board,

Attention: Urcel Daniel, Secretary,

7933 West Fourth St.,

Los Angeles, California.

Gentlemen:

Greatly surprised at your wire received this morning. Demands for unconditional reinstatement of three Citizen-News Company employees with provi-

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

sion for no dismissals are directly contrary to contract agreed upon and must be rejected.

We are always willing to meet with representatives of our employees but there can be no compromise on publisher's right to dismissals.

Yours very truly,

HARLAN G. PALMER,

Publisher, Citizen-News

HGP/T

Postal Telegraph
(The Mackay System)
All America Cables
Commercial Cables

1938 June 7 AM 11 12

SA71 68 RC-AL Los Angeles Calif 7 1041A
Harlan G Palmer Hollywood Citizen News
1545 North Wilcox Ave Hollywood Calif

Responding to your appeal yesterday's editorial column, we again urge you to enter into negotiations in accordance with our offer in previous telegrams. Prolonging strike through die hard attitude on your part will serve no good purpose, and will wreak much harm on paper as well as on cause of progress and progressivism in Southern California. Door stands open now as wide as ever. Please wire answer collect.

LA NEWSPAPER GUILD,

(Testimony of Roger C. Johnson.)

(Board's Exhibit No. 4 continued)

Postal Telegraph
(The Mackay System)
All America Cables
Commercial Cables

Hollywood California
June 7 1938

Los Angeles Newspaper Guild
Attention Miss Urceel Daniel
Care of Hollywood Anti-Nazi League
Room 214 6513 Hollywood Blvd.
Hollywood California

Can arrange for conference on telephone call but cannot yield to demands for reinstatement and no dismissals that were made after our last offer of a contract.

HARLAN G PALMER.

Direct Examination

Q. (By Mr. Persinger) Mr. Johnson, I will show you a document marked Board's Exhibit 5 for identification, and ask you if you have seen a copy similar to that, though not necessarily identical.

A. Yes, I have.

Q. What is that?

A. It is a memo from the managing editor to Elizabeth Yeaman discharging her.

(Testimony of Roger C. Johnson.)

Q. And did you receive a similar one telling you that you were discharged? A. Yes, I did.

Q. Was the wording the same except for the name of the person to whom it was addressed?

A. Without actually comparing them, I would say the wording is the same.

Mr. Persinger: I will offer this in evidence as Board's Exhibit 5, and I will state that copies of the three forms, this to Elizabeth Yeaman, one to Roger Johnson, and one to Mel Scott, are contained in Board's Exhibit 4, but I want to put Board's Exhibit 5 in to show the actual form that was used.

Trial Examiner Kennedy: Any objection, Mr. Sargent?

Mr. Sargent: No objection.

Trial Examiner Kennedy: So admitted. [107]

(Thereupon the document above referred to was received in evidence and marked as Board's Exhibit No. 5.)

Q. (By Mr. Persinger) What time of day did you receive that, your copy of Board's Exhibit 5?

A. At seven-thirty on Saturday morning, May 14, 1938.

Q. Where were you when you received it?

A. Well, it was in my typewriter when I got to work. I took the cover off and found a similar notice in an envelope which I opened.

Q. What did you do about it?

A. I read it and continued to do my work.

(Testimony of Roger C. Johnson.)

Q. Did you later that day talk to anyone about it?

A. No one approached me except the members of the staff; none of the managerial persons with the exception of Harold Hubbard later in the day around noon.

Q. Did you talk to Mr. Hubbard about your discharge?

A. Yes; I went to lunch with Mr. Hubbard.

Q. Mr. Hubbard is the city editor?

A. He is the city editor under whom I most directly worked. He said that he was sorry that I was discharged; that he always enjoyed working with me. He said he had depended upon me greatly; that he didn't know how he was going to get along without me; that I had been a fine workman, and that he hoped this thing could be solved and settled.

[108]

I expressed to him similar sentiments, that I always enjoyed working with him, appreciated his friendship and cooperation.

Q. Did you get your check on that Saturday.

A. No. The notice stated—(examining document)—that, a check covering severance pay agreed to in negotiations between the Citizen-News and the Newspaper Guild, together with earned vacation pay and your pay for this week's work, will be ready Monday forenoon.

Q. Did you have any contact with any members

(Testimony of Roger C. Johnson.)

of the management or of the Respondent on Sunday? A. On Sunday?

Q. Yes. A. No, I did not.

Q. Did you, on Monday?

A. No, I did not. I was downtown on business about other things on Monday.

Q. Did you get your check on Monday?

A. No; I refrained from getting it because I wasn't sure I should get it or not, because it mentioned "in conformance with an agreement negotiated by the Guild." We had no such agreement.

Q. What were you doing on Tuesday?

A. Walking the picket line early in the morning.

Q. Guild picket line? [109]

A. The Guild picket line in front of the Citizen-News plant.

Q. Were you present when the strike was called resulting in that picket line? A. Yes, sir.

Q. When was that meeting?

A. Well, there were a series of meetings actually. The staff met on Saturday afternoon, May 14.

Q. At what time?

A. At the home of Frank Scully, late in the afternoon.

Q. Around what hour?

A. I believe we called it for around two o'clock or three o'clock, something like that. People arrived late, and they didn't get started promptly.

Q. Was there a strike vote taken at that meeting? A. There was.

(Testimony of Roger C. Johnson.)

Q. And what was the result of the balloting?

A. The result of the ballot was twelve to one for strike. May I explain it?

Prior to this, each member of the staff had been permitted to speak, going around the room, each taking a turn, each expressing his attitude.

The ballot was secret. The ballot was cast in a bowl or vase or whatever it was, and counted by a specially appointed committee.

Q. And as a result of that vote—by the way, did the vote [110] set a time for the strike, or did it authorize someone to set the time? How was that handled?

A. That was handled through the Guild executive committee.

Q. What was voted on? What was the question?

A. We had so many meetings; I want to be sure of this one.

Q. You say you took a vote to strike?

A. Yes; that is correct.

Q. Do your rules and regulations provide for the mechanics of calling a strike once you vote?

A. The unit itself must call the strike; there can be no outside dictatorship of any kind.

Q. Did you set a time for the strike to begin, a deadline?

A. No, we didn't set a time at that meeting.

Q. Did you authorize anyone else to set a deadline?

(Testimony of Roger C. Johnson.)

A. We turned the whole matter over to the executive committee of the Guild.

Q. Did they later set a time for the strike to begin? A. They did.

Q. What time did the strike begin?

A. Either six or six-thirty on Tuesday morning, the 17th of May. [111]

The Witness: I think I wrote it some time in advance of its actual appearance. I know I wrote one that didn't get in right away, apparently held up or something.

Same page, "City Deal with S. P. Scored." I wrote that story, to the best of my knowledge.

Another one about "Promotions due Bruin Editors." I either wrote that or supervised the writing of it by our college correspondent. [122]

By the way, I had the power to hire or fire college correspondence who got ten cents an inch.

[123]

Cross Examination

Q. (By Mr. Sargent) Who is the present President of the Citizen-News unit of the Guild?

A. There is no President. The Chairman's name is James Francis Crow.

Q. And the Chairman of the unit is the highest ranking official of the Union, is he not?

A. Yes.

Q. There is no such office as President or Manager? A. That is correct. [132]

(Testimony of Roger C. Johnson.)

Q. And the Chairman is the top executive of the unit? A. Yes.

Q. Now, how long has Mr. Crow been in that capacity?

A. I believe, all the time the Citizen-News unit has been in the Guild.

Q. Approximately since October, 1936?

A. Yes.

Q. You say, the unit was formed, was organized in or about October of 1936?

A. The first members were taken in around September and October. I think we reached the unit stage around October. We needed seven members to create a unit.

Q. Apart from what you have designated as supervisory positions, that is, people who are deemed by the Guild Unit to be closer to the management than to the Guild membership, apart from those, how many positions are there in the Editorial Department of the Citizen-News, do you know?

A. There are none to my knowledge.

Q. You mean excluding the managing editor and Zuma Palmer? He is the radio editor, is he not?

A. Yes.

Q. Regardless of the actual number of positions, I take it you mean, that all positions except the supervisory positions were occupied by employees who were members of the Guild; is that right?

(Testimony of Roger C. Johnson.)

A. Zuma Palmer is not in a supervisory position, but a sister of Judge Palmer, therefore is disqualified.

Q. Excepting Mr. Swisher and Miss Palmer, were all other members of the editorial Department staff members of the Guild at the time negotiations were commenced between the Guild and the paper?

A. To the best of my knowledge, they were.

Q. And did that continue down to the end of the negotiations?

A. All members of the editorial staff?

Q. Yes.

A. Yes, if their dues were paid.

Q. You don't know anybody whose dues were not paid in that connection, do you?

A. I was not the treasurer. Therefore I was not familiar with it.

Q. Who was the treasurer?

A. Lowell Redelings.

Q. Is there a secretary of the Local Unit?

A. Yes.

Q. Who is it? A. Elizabeth Yeaman.

Q. You don't remember how many positions in the editorial department, apart from the three I just enumerated, Swisher, Hubbard and Miss Palmer?

A. I will be glad to go around and name them for you. [134]

Q. Well, suppose you tell us?

A. James F. Crow, drama editor; Elizabeth Yeaman, drama critic; Roger C. Johnson, various

(Testimony of Roger C. Johnson.)

jobs; Alexander Swam, reporter; Lida Livingston, reporter and church editor; Claude Newman, sports editor; Stanley Speer, copy boy and sub-assistant sports writer; Helen Ewing, reporter; May Hobart, society editor; Floyd Simonton, reporter; Selby Calkins, police reporter; James Lindsley, copy desk; Herman Reuter, copy desk; Cliff Wesselman, photographer; John Watts, San Fernando Valley editor; Betty Kirby, Beverly Hills correspondent. I believe that is all.

Mr. Persinger: Mel Scott?

The Witness: Mellier Scott, Jr., editorial writer.

[135]

Q. Now, do you purport to know the rate of pay received on March 10th—May 16th, by Mr. Simon-ton? A. Of this year?

Q. Yes.

A. I believe he was getting the same as I, \$45.00 a week.

Q. And Mr. Calkins?

A. I think Mr. Calkins' was the same.

Q. To the best of your knowledge, all were paid equal; is that correct? A. Yes.

Q. Was Mr. Calkins an active member of the Guild? A. Yes.

Q. And Mr. Calkins served on the Negotiating Committee?

A. He served once or twice on the Negotiating Committee at Glendale News-Press where you were the attorney.

(Testimony of Roger C. Johnson.)

Q. More than once? A. More than once.

Q. He was a regular member, was he not?

A. I believe he was, yes. [136]

Q. (By Mr. Sargent) Was Mr. Floyd Simon-ton, during 1938, an active member of the Guild?

A. He may have served on some of the Unit's committees, and to the best of my knowledge, he helped on various functions of that kind. He was a member of the C. I. O. Council delegation sent to the C. I. O. Unit Council.

Q. And he was an active member of the Los Angeles Guild?

A. He was—(pause)—active——

Q. (Interrupting) Well, after the word "ac-tive" you have shown some hesitancy. He was a member of the Los Angeles Guild?

A. Some were more active than others. I don't know what you are driving at.

Q. Was he as active as Mr. Calkins?

A. On the whole—perhaps so.

Q. And, what position did you say he held in the C. I. O.? [139]

A. He was a delegate from the Los Angeles Guild, one of the five.

Q. That is, of all the Guild membership of the Los Angeles Unit, he was one of five sent to the C. I. O. Convention?

A. Not convention—I see you are not familiar with labor practices.

(Testimony of Roger C. Johnson.)

Q. I am certainly not familiar with unfair ones.

Trial Examiner Kennedy: Describe the Committee?

The Witness: In each city, there is an organization known as the C. I. O. Unit Council, or part of the Committee for Industrial Organization. It is the executive governing in that city. All units in that community attend the meetings and determine its policies—C. I. O., not A. F. of L.—and I personally saw to it that Floyd Simonton was nominated; so he could later attend those meetings.

Q. (By Mr. Sargent) Does that mean that being a delegate carried with it certain privileges?

A. If the delegate cared to exercise them.

Q. Yes. Did Mr. Simonton occupy any office on that Committee? Do you know?

A. I am not as familiar with that Committee as Mr. Simonton would be, so I can't say.

Q. You don't know if he became Secretary of that Committee, do you?

A. I believe he did serve in that capacity for a few [140] weeks or months. [141]

Q. Would it necessarily be true, that the radio editor at the Citizen-News would not be eligible for Guild membership in the event someone else became radio editor?

A. The radio editor of the Citizen-News was not admitted to membership only because of family relation. [150]

ELIZABETH YEAMAN

recalled to the stand by and on behalf of the National Labor Relations Board, having been previously duly sworn, was further examined and testified as follows:

Redirect Examination

Q. (By Mr. Persinger) Were you present at some of the [154] negotiation meetings between the Guild representatives and the Respondent?

A. Yes. [155]

Q. Do you remember who was there?

A. It is very difficult for me to say definitely who was there, or the date, because they were all a great deal alike, and I was under emotional stress and strain at the time, and to pick out one and having made no notes of it, I could very easily give incorrect information and have Mr. Sargent call me on it later. He, no doubt, has taken actual notes, and I hate to try and be definite about a thing——

[157]

KARL SCHLICHTER

recalled to the stand by and on behalf of the National Labor Relations Board, having been previously duly sworn, was further examined and testified as follows:

Redirect Examination

Q. (By Mr. Persinger) Mr. Schlichter, you were in the advertising department? A. Yes.

(Testimony of Karl Schlichter.)

Q. And you attended the meetings of the salesmen? A. Yes, regularly.

Q. Was it customary for the advertising department to work on Saturday? A. No, it was not.

Q. Did the department work on Saturday for a while? [168]

A. Yes, they did. I was not required to, but the salesmen were.

Q. Was that discussed at one of those meetings?

A. Yes.

Q. Were you present? A. I was present.

Q. Will you tell us what was said?

A. As I recall, Brandon had been talking about Unions again.

Trial Examiner Kennedy: When was that meeting?

The Witness: This meeting was held late in October.

Trial Examiner Kennedy: Where?

The Witness: In the office of the Citizen-News, in Judge Palmer's office, the room in which the meetings were generally held in the Citizen-News building.

Trial Examiner Kennedy: Who was present?

The Witness: Harry Brandon, advertising manager, myself, and all of the members of the advertising department should have been there—excepting Miss Coloran, who never attended those meetings.

(Testimony of Karl Schlichter.)

Mr. Brandon was talking about Unions, as I recall, and said that the men were not working hard enough, and would have to think more about their work or some drastic action would be taken on that from now on; that they would have to consider coming to work every Saturday morning, and I believe someone interrupted him there and said that there was [169] not very much to do—that they could not sell advertising.

He said, angrily, “Come Saturday mornings and sit at your desk, keep working at your desk and smell your own feet stink.”

Q. How long did the Saturday work last?

A. I believe it lasted three or four Saturdays. Then it was called off, and I believe started once more. Inasmuch as I wasn't involved, I don't know how many had to work Saturday, and exactly how long they had to work. [170]

Q. Did you, yourself, at any time this year, talk to Mr. Young with regard to the Guild?

A. Mr. Young talked to me with regard to the Guild.

Q. When?

A. It was two or three weeks before I was discharged.

Q. And, where was it? In Mr. Young's private office—was anyone else present? A. No.

Q. What was said?

A. I was in his office discussing my work, and brought up the fact that business was very poor, and

(Testimony of Karl Schlichter.)

said, of course, the Guild people didn't take that into consideration when negotiating for a contract, and he said, as a matter of fact, the negotiators are not interested in getting a contract, they wanted to prolong the discussion in order to get more money and then discussed one thing after another with regard to this contract. We started talking about severance [172] pay. He said that severance pay was no protection to the workers, because it forced the management to go into a schedule of firing, that no one would build up a high severance pay; and he talked about a progressive wage schedule, said it was no particular protection to anyone because they could find any number of people who were willing to work year in and year out for approximately the same salary, people who didn't have any great amount of ambition and possess the ability to achieve a high place in the newspaper world. He said there was no reason for the management to give higher pay, so the protective wage schedule was not protection, and that they would have to get rid of those people. He mentioned two people, one by name, whom he said they would have to get rid of.

Q. Who was that?

A. Stanley Speer.

He said that they could not possibly let him progress to a higher pay because of a speech defect, because he couldn't do the work, and talked about the negotiators again, saying that the negotiators had called Mr. Sargent a liar, and discredited Mr.

(Testimony of Karl Schlichter.)

Sargent; as a matter of fact, he was a legitimate lawyer, and that he was in no sense a labor agitator as the negotiators had said. As a matter of fact, he had secured several things that the management was not willing to give them, that he had gotten the management to [173] compromise on it, and that really the negotiators were the liars and Mr. Sargent was not a liar, and, then, he said that as a matter of fact, the negotiators had lied some more when they said—discussed wages on other papers, that the Citizen-News at that time had a high or higher wage schedule than any other paper in town.

I asked him if that was true in the advertising and display department, and as I knew my salary was not the same as those of the down-town papers, and quite sure the others were not.

He said, "Yes, particularly true of those two departments," and went on rather facetiously, saying "Well, if the wages were higher the Union would be ended by paying all the other departments higher wages, showing that the Union was not necessary to increase your pay." Then he ended by saying it was too late to do anything on it, that nothing can be done any more. That ended the conversation. [174]

HELEN BRICHOUX KAVALOSKY

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Trial Examiner Kennedy: Please give your full name and address to the reporter.

The Witness: Helen Brichoux, B-r-i-c-h-o-u-x Kavalosky, K-a-v-a-l-o-s-k-y, 1733½ North Edgemont.

Direct Examination

Q. (By Mr. Persinger) Did you formerly work for the Hollywood Citizen-News?

A. Yes; I started to work there on January 2, 1929.

Q. You worked up until what time?

A. Up until the morning of May 17th.

Q. Did you go out on strike at that time?

A. Well, I joined the strike of the editorial workers with members of the Los Angeles Newspaper Guild, as I am also, and I joined because they were striking in protest of a violation of the Wagner Labor Relations Act—— [177]

Mr. Sargent: I object to that, and I ask that that designation go out. I ask that her designation of its being a violation of the Wagner Act go out. She is not qualified to give an opinion as to the law.

Mr. Persinger: Mr. Examiner, I have no objection to it going out.

Trial Examiner Kennedy: Strike it.

(Testimony of Helen Brichoux Kavalosky.)

Q. (By Mr. Persinger) What was your job?

A. Selling classified advertising.

Q. And how long had you been doing that?

A. For almost nine and a half years.

Q. Ever since you started with the Citizen-News? A. Yes, sir.

Q. Who was your department head?

A. J. R. Tobin.

Q. There has been some testimony in the hearing that last Summer one or more departments were asked by the management to meet with various persons connected with the management to discuss wages and working conditions, matters of that sort. Do you know of your own knowledge if such a request was made of your department? A. Yes.

Q. Do you know about when it was made?

A. Yes; very late in June.

Q. Who made it [178]

A. Mr. Young.

Q. And did a committee of your department, or did the whole department, meet with Mr. Young?

A. A committee representing the department.

Q. Who was on that committee?

A. As I remember, it was Maurice Spear and Ben Price, Wallie Reed, myself—I was the oldest member of the department—and Florence Davis, who was the supervisor in the phone room. I can't be sure about anybody else.

Q. And who represented the management?

(Testimony of Helen Brichoux Kavalosky.)

A. Well, Mr. Tobin, our boss, also attended these meetings, although none of the bosses in the other departments had attended any of the other meetings with the management; and Mr. Young represented the management.

Q. How many meetings were held?

A. Well, as I remember, it seems to me there was a meeting every morning for about a week. There were at least five or six.

Q. Did you attend the first meeting?

A. I attended all of them.

Q. Will you tell us what took place at those various meetings and what was said, and who said it?

A. Yes. The first morning we went in at 11:30 to Mr. Young's office and he said that several departments had been meeting [179] with the management to discuss their individual and collective job problems and working conditions, and if we had any complaints, he would like to know, and maybe we could arrange some changes. We were to discuss our wages, and he had lying before him on the desk an agreement which he explained had been signed by other departments. And this agreement contained wages and severance pay, hours and commission. In our department, we work on a commission. And we were quite surprised at this. I mean, we hadn't drawn up any kind of an agreement, because we expected to discuss with him our

(Testimony of Helen Brichoux Kavalosky.)

own personal problems. There weren't very many of us, you see.

So he said that we could just read this over and fill in the names of the people in our department and the working conditions that we felt would be fair to the people working there. And we did this as a group.

We went to the rest of the department and put in the wages that we thought would be fair for us. At that time we were working in the phone room in my department, working on a wage of \$10.00 a week and commission, and the minimum wage that we could receive was \$15.00 because for many months that is what I received every week. Then we presented this at the next meeting.

But this was laughed at by our boss, Mr. Tobin, as being outrageous, and Mr. Young said it would be impossible for the management to agree to anything like this, because they [180] weren't financially able to. They had given a lot of raises in the back shop.

Q. What do you mean by the "back shop?"

A. In the mechanical department, and also the business office; the commercial department had already signed an agreement, and a great many raises had gone into effect there.

So we were informed that we had to whittle this down quite a bit.

And at this time Mr. Young did make a statement that all the other departments had signed this

(Testimony of Helen Brichoux Kavalosky.)

agreement, which surprised me, because I knew the editorial department hadn't, and I asked him if they had, and he said no, they hadn't, but the other departments had.

I asked what he meant by that. He said, "Well, the commercial department has signed such an agreement."

Early in the Spring of that year, the American Newspaper Guild had laid their membership open to the commercial and advertising departments, so there was a logical Union that we could join. I mean, we didn't have to have an agreement with the Company particularly as a Company Union, because the American Newspaper Guild is a bona fide Union affiliated with the C. I. O.

So as the time wore on and we whittled these wages down lower and lower, it finally reached a spot where Mr. Young agreed that we would be allowed to have mileage for the sales- [181] men who hadn't formerly had mileage expenses that worked on the outside; and the way the wage was finally fixed in my particular department, my salary the following week of these discussions was 42¢ more than it was before that. So that you can see the change was very small.

Finally when the last day came, or rather next to the last session that we had with Mr. Young, I asked him why we would have to sign an agreement with the Company to get a raise. I said that we had never had to sign an agreement before with any-

(Testimony of Helen Brichoux Kavalosky.)

body; I mean, we weren't the kind of people that worked under a contract or anything, and we just wanted to improve ourselves; that we worked for the Company a long time; we always trusted the Company, and they certainly always trusted us. There was no reason why we should break our word. And I asked him if he wanted us to sign the agreement, and before he could answer me, Mr. Tobin, my boss, spoke up and said, "Why certainly you want them to, don't you, Harwood?"

Mr. Young quickly said, "No, no. They can do what they want." He said, "We just wanted them to do what the other departments did, if they wanted to."

So then I spoke up again and said, "What will happen if we don't sign the agreement?"

And Mr. Young said, "Well, if you don't sign the agreement, then you must understand that at any time if the manage- [182] ment feels it is necessary to cut salaries, that your department will be the first department to be affected because we will feel that we don't have to hold your salaries up since we have no signed agreement with you, as we will feel bound to hold up the salaries of the commercial department because we have a signed agreement with them."

And I said, "Well, what will hapen if we don't sign this agreement? I mean, can't you just keep your word and give us all this as a raise?"

(Testimony of Helen Brichoux Kavalosky.)

And he said, "Well, if you don't sign it now, it will be filed as of this date as a record of these meetings."

So I said that we had better think it over, about signing this agreement, and the session was over.

As I started to leave the room, he stopped me and said, "Helen, you won't do anything to try and keep these people from signing this agreement, will you? You won't try and influence them in any way?"

And I looked at him and said, "Yes, Mr. Young, I will do anything I can to keep these people from agreeing to something which I think constitutes a Company Union."

And he looked at me and said, "Helen, I think you must be getting outside advice."

I told him No, that I just knew about the Wagner Act, and I was probably a little bit intelligent.

So he walked on out of the room then. [183]

We talked it over with the members of the department, and they still didn't want to sign the agreement because they were all aware of the fact that if we wanted to join a Union of some kind, or sign an agreement with the Company, that we could be represented by the American Newspaper Guild, So we went to him the next day and told him that the final word had been that we would not sign the agreement.

He said, "Well, then, I want to remind you again, you don't want to feel that we are going to feel

(Testimony of Helen Brichoux Kavalosky.)

responsible for your department's salaries if it is necessary to cut salaries at any time."

Q. Since the strike, have you talked with any of the supervisory staff of the paper? A. Yes.

Q. With whom?

A. Well, the day after—the very day the strike was called on Tuesday, my boss, Mr. Tobin, approached me on the picket line and invited me to lunch. While we were sitting and having lunch, Bill Hawkins, who is Judge Palmer's brother-in-law, came in and sat with us, and also Pat Killoran, the fashion editor who joined the strike, and my boss seemed very much concerned because I had worked my job up to the point where it was better than it ever had been in the nine and a half years that I had worked there, and he assured me that he felt I was very sincere in my move, and also told me that [184] he had more respect for me on the picket line than he had for any people that had walked through the picket line and had gone to work in the plant.

And at the time we were sitting there, he merely said to me that he hoped that everything went well with me, and wished me good luck.

Q. Have you talked with Harry Brandon since the strike?

A. Very slightly. I was sitting in this same place having lunch, and he walked in. It was a very busy hour, around noon. This was about three days after the strike was called; and when he saw me sitting there, he walked over behind me and shouted as

(Testimony of Helen Brichoux Kavalosky.)

only Mr. Brandon can shout and said, "Helen, you had better get out of here because I want to sit down and eat lunch. I won't eat with a striker."

I told him I was sorry, but he would have to go some place else in that case.

Mr. Persinger: Take the witness.

Mr. Sargent: No cross examination.

(Witness excused.)

HELEN EWING

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Trial Examiner Kennedy: Please give your full name and address to the reporter. [185]

The Witness: Helen Ewing, 2336 Cheremoya.

Direct Examination

Q. (By Mr. Persinger) Miss Ewing, did you formerly work for the Citizen-News?

A. Yes, I did.

Q. Did you go out on strike?

A. Yes, I did.

Q. What department were you in?

A. In the editorial department.

Q. Were you a member of the Guild?

A. Yes, sir, I was.

Q. When did you join?

(Testimony of Helen Ewing.)

A. In December, 1937.

Q. 1937 or 1936? A. 1936.

Q. You have been a member for about a year and a half? A. Yes.

Q. Do you know Zuma Palmer?

A. Yes, sir, I do.

Q. Did you, before you joined the Guild, talk to her about your possible membership in the Guild?

A. Yes, sir, I did.

Mr. Sargent: Just a moment. Who is this?

Mr. Persinger: Zuma Palmer.

Q. About when was that? [186]

A. Well, it was very shortly after I had been in the editorial department; I should say that it was in late November, 1936.

Q. Was anyone else present at that conversation?

A. No.

Q. What was said?

A. Well, I went into the morgue one day to get a picture or something out of the morgue, and Miss Palmer asked me if I had been approached by anybody in the editorial department about the Los Angeles Newspaper Guild, and I said, yes, that I had.

And she wanted to know what I thought about it, and I said, well, I hadn't thought a great deal about it one way or the other.

She said she hoped that I certainly would talk it over with Judge Palmer before I joined the Guild.

I said, "Why?"

She said, in view of the fact, all that the Judge

(Testimony of Helen Ewing.)

had done for all of the editorial department employees and for me, that she thought it was very ungrateful of anyone to join the Guild.

I said I didn't understand that. I was rather pressed for time because it was getting close to deadline.

She said she hoped that before I joined the Guild, I would talk it over with the Judge. [187]

So shortly after—I had been to one Guild meeting, I believe, at one time—shortly after that I decided that I would join the Guild because I wanted to know newspaper people. I felt that by joining the newspaper Guild, I would have the opportunity of meeting and knowing more newspaper people in that way than I would in any other way. [188]

Cross Examination

Q. (By Mr. Sargent) Miss Ewing, at this time when you saw the notice on the bulletin board, did you know that the Guild had sent a telegram to the management with regard to a strike vote having been called by the Guild?

A. Yes, sir, I did. [193]

Q. May I ask you what part of that typewritten notice stunned you? A. All of it.

Q. Let's just read this together and see what there is here that stuns you particularly.

A. Shall I tell you why I was stunned?

Q. Let me ask you the questions, and you an-

(Testimony of Helen Ewing.)

swer them. This is on Citizen-News stationery,
“Monday morning, May 16th, 1938.

“Employees:

“The Los Angeles Newspaper Guild Executive Board has notified us that the Citizen-News Unit has voted to strike tomorrow morning. I want to thank you all for the pleasant and harmonious relations of former days, and want you to know that whatever happens, I shall strive against ill-will. Your paychecks for today will be with Mr. Swisher at leaving time, and I shall appreciate it if you will leave your key [194] with him as you pick up your check.

“With sincere good wishes to each of you.

“HARLAN T. PALMER.”

What was the part of that which left you stunned?

A. The fact that we were going to strike. I knew that we had taken a strike vote, Mr. Sargent. I also understood that negotiators were going to talk with the Judge at 11:30, and I certainly thought that in that length of time when the negotiators talked with the Judge, that this would all be ironed out. I certainly didn't think that we really were going to strike. I didn't have reason to know what a strike was all about. I have never struck before. [195]

JOHN WATTS

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows: [200]

Direct Examination

Q. (By Mr. Persinger) Mr. Watts, were you formerly working for the Citizen-News?

A. Yes, sir.

Q. When did you stop working there?

A. On May 16th.

Q. That was the last day you worked?

A. Yes.

Q. Did you go out on strike on the morning of the 17th? A. Yes, sir.

Q. You are a member of the Guild, I take it?

A. Yes.

Q. About when did you join the Guild?

A. In December, 1936. [201]

Q. Now, prior to the strike, had you ever heard Mr. Swisher make any remarks concerning the Guild, or the C. I. O.? A. Yes, sir.

Q. When were these remarks made?

A. At various times during the Fall of last year, when I was working on the copy desk.

Q. Where is that in relation to Mr. Swisher's desk?

A. Well, my desk is kind of kitty-corner across, the copy desk, from him about five or six feet.

Q. Was anyone else present when those remarks were made?

(Testimony of John Watts.)

A. All of the members of the copy desk.

Q. How many? A. Three copy readers.

Q. Who are they?

A. James Lindsley and Herman Reuter. I would have to qualify that in case one of them had gone into the composing room or something.

Q. You mean one or both of them were probably present at [202] each of those occasions?

A. Yes.

Q. What remarks did you hear Mr. Swisher make?

A. Well, several times while we were handling stories about Union strikes that were taking place at that time, Mr. Swisher said that the C. I. O. had gone too far; that he believed in Unions, but he thought the C. I. O. was carrying things too far.

Q. Did he ever refer directly to the Guild?

A. Yes; and then—I don't know just how to express this—he said, "You fellows belong to the C. I. O., don't you, the Guild?"

Q. Did he make that remark along with the others?

A. That was approximately the wording. [203]

JAMES CLIFTON WESSELMAN

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Trial Examiner Kennedy: Please give your full name and address to the reporter.

The Witness: James Clifton Wesselman, W-e-s-s-e-l-m-a-n, 6518 Leland Way.

Direct Examination

Q. (By Mr. Persinger) Mr. Wesselman, did you formerly work for the Citizen-News?

A. Yes, sir.

Q. You went out on strike? A. Yes, sir.

Q. I take it, then, you are a member of the Guild? A. Yes, sir.

Q. When did you join the Guild?

A. Pardon me. I will refer to my Guild card. (Referring to document.) I believe it was June 21, 1937. That is correct. [205]

JAMES FRANCIS CROW

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Trial Examiner Kennedy: Please give your full name and address to the reporter.

The Witness: James Francis Crow, 1900 Franklin Circle.

(Testimony of James Francis Crow.)

Direct Examination

Q. (By Mr. Persinger) Mr. Crow, did you formerly work for the Hollywood Citizen-News?

A. Yes.

Q. Did you go out on strike? A. Yes, sir.

Q. When did you first go to work for Respondent? A. As I recall, in the Fall of 1930.

Q. And at what job?

A. As a police reporter.

Q. What was your job when you went out on strike? A. Beg your pardon?

Q. What was your job when you went out on strike? A. Drama editor.

Q. How long had you been in the drama department?

A. I believe a little less—in the drama department for [208] about five years.

Q. Will you relate the history of your relations with the Respondent, particularly in regards your organizing activities among the employees in the editorial department?

A. I believe the first occasion for the development of interest in the Guild on the Citizen-News was the circulation of a petition among about seven or eight members of the editorial staff for the purposes of presenting it to Judge Palmer.

In this petition, we set forth that we were highly trained newspaper men and woman; that we thought that we were underpaid; and that it was time that something should be done about it.

(Testimony of James Francis Crow.)

That petition was presented to the management, to Judge Palmer, and the response of the management was the calling in individually, without reference to the petition, of each member of the editorial department.

Subsequent to these individual conferences, at the most of which the members of the staff told me there had been no talk about wages and hours, a notice appeared in the Office Gossip, or the office bulletin, to the effect that if an employee was not satisfied, he should do himself the justice of looking elsewhere for work. I told other members of the staff that it was just as sensible for us to tell the Judge that he should look for another place to work, and that our only hope was in some kind of a widespread organization to [209] raise the market price of newspapermen.

I was waiting from that time on the opportunity to become active in the Guild, and that opportunity came when Roger Johnson called me and told me that certain down-town newspapermen and himself were attempting to organize a Guild.

Roger Johnson became President of the Guild. I became Chairman of the Unit on the Citizen-News, and I worked in the Guild under Roger Johnson's directly mostly in attempting to form the basis of a city-wide organization.

This early organizational period coincided with the candidacy of Judge Palmer for District Attorney. The relations between the management and the

(Testimony of James Francis Crow.)

Guild, that is, between the management and Roger Johnson and myself and other persons on the staff who were active in the Guild, was very cordial, Roger at one time spoke as the President of the Los Angeles Guild on the radio in behalf of Judge Palmer's candidacy after being requested to do so by Mr. Swisher, the managing editor.

My own activity in the Guild was given impetus during that candidacy by a speech which I heard Judge Palmer make at a campaign meeting. At that meeting a woman campaign worker who had been active among the Studio Unionists told him that her work was made more difficult by the fact of an open shop in Judge Palmer's composing room, and asking him what reply she should give to persons who asked her about the fact of the open shop. [210]

The Judge took the floor and described what he said were his earlier relations with the International Typographical Union. He said that when the paper became a daily, the Union had come to him with the proposal to organize the composing room, and that he had told the Union to go ahead.

He said that later the Union representatives came to him and told him that their organization had been halted by the presence on the staff of three men who refused to join the Union.

The Judge said that he told the Union representatives that he would not force these members to join the Union, and that so long as a single loyal employee of the Citizen-News refused to join the

(Testimony of James Francis Crow.)

Union, there could be no Union shop or closed shop in the Citizen-News plant.

I reported that statement of Mr. Palmer's to the members of the staff, and told them that reasoning from that, our work was cut out for us; that we should have 100% membership in the editorial department.

Eventually we succeeded in getting 100% membership of all those whom we expected to be covered by the contract.

After the Judge's defeat in the District Attorney campaign, there was a noticeable change in the attitude of various executives toward the Guild. Mr. Swisher at this campaign meeting I referred to had spoken eloquently about the fact of Guild membership in the editorial department to [211] this woman who had been working among the studio Unionists for votes, and said at that time the Guild had a hundred percent membership, which it did not.

Subsequent to that, as I say, there was a change in the attitude. For one thing, Mr. Swisher seemed to think that it was bad strategy for the Guild to talk so much about wages and hours. He said he thought it was better strategy to talk about the professional standards, and I replied to him on numerous occasions that we had our hands full trying to get decent wages, let alone establish professional standards.

Mr. Swisher's wife sometimes joined in these con-

(Testimony of James Francis Crow.)

versations at which the establishment of professional standards was urged upon us—upon me.

From time to time, as news stories came in about Guild activity elsewhere in the country, Mr. Swisher spoke about them disparagingly. He said, for example, in the case of the Brooklyn Eagle strike, that he didn't see what they had gotten. He said the same thing about the settlement of the Seattle Post-Intelligencer strike, and the same thing about the settlement of the Seattle Star strike.

His attitude towards Roger changed from one of pride to one of managerial irritation.

Mr. Sargent: Now, if the Court please, I have tried not to interrupt Mr. Crow, but I wish he would stick to fact and not characterizations, please.

[212]

Trial Examiner Kennedy: Just stick to facts.

The Witness: When Roger was in the hospital recovering from a broken leg, I know that I took notes to Roger from Mr. Swisher couched in what I thought——

Mr. Sargent: (Interrupting) I object to what he thought. Tell what the notes said.

Trial Examiner Kennedy: Did you see the notes, Mr. Crow?

The Witness: Yes, I did see the notes.

Trial Examiner Kennedy: Do you remember some of the phrases in some of those notes?

The Witness: My memory is not quite that good on the notes. I know that the notes kept urging

(Testimony of James Francis Crow.)

Roger to return to work; that he was badly needed. I will just skip that part about the notes.

Trial Examiner Kennedy: Were the notes friendly in nature, or otherwise?

The Witness: I thought that they were—may I use the word, querulous.

Trial Examiner Kennedy: Go ahead, Mr. Crow. We will get away from the notes.

The Witness: Another person who spoke to me about the Guild was Mr. Young who also believed—said to me that we should have confined ourselves to the establishment of professional standards, and who said also that we should have confined our activities to the editorial department, for by [213] this time the Guild was tending toward the industrial form of organization.

A matter which Mr. Young spoke to me about on several occasions was the Guild's use of outside negotiators. His favorite objection to the Guild's use of outside negotiators was the fact, as he called it, that it put Judge Palmer in the position of the less reputable publishers. And I answered him by saying that we weren't necessarily calling a man an adulterer to ask him to abide by the ten commandments.

During the Summer of 1937, we became aware of activity in other departments in the way of conferences with the management on working conditions, and we—I learned that there had been an agreement signed in the business office. After a time, Mr.

(Testimony of James Francis Crow.)

Young came to Roger Johnson and invited Roger Johnson to invite the members of the staff to speak with the management in a way similar to that which the other departments had done.

We accepted that invitation, and a committee composed of Roger Johnson and Elizabeth Yeaman, Floyd Simonton and myself, spoke to Judge Palmer and to Mr. Young about working conditions. We confined ourselves to the generality of working conditions, except that we did point out what we considered certain lack of opportunities for various members of the staff.

When I was through speaking—I was spokesman for this [214] meeting, the early part of it—Judge Palmer said, taking a piece of paper and placing it before him on the desk, “What I want is a schedule of wages and a schedule of hours.”

We said that we did not propose to name figures and wages, or name any schedule of hours specifically.

He said that if we did not do that, we would be the only department that had failed to cooperate with the management in this regard.

We told him we understood that there had been no such cooperation from the display department; and when the Judge said, “What do you want,” we said that we wanted to be represented by the Los Angeles Newspaper Guild. We told him that we could not commit ourselves in writing or otherwise

(Testimony of James Francis Crow.)

to definite schedules of wages and hours without employing the Guild's representatives.

After the meeting, I told Floyd Simonton and Roger Johnson, referring to the point at which the Judge had proposed a definite schedule of wages and hours and encountered our refusal, that I had never before seen the Judge lose his poise.

Subsequent to that conference, there were certain adjustments made in salaries in the editorial department. A noteworthy feature of the adjustments was the fact that I was given a \$5.00 increase in salary, and the title of drama editor which had been held previously by Miss Elizabeth Yea- [215] man.

The transfer of the title came in this way: Mr. Swisher called me into his office early one morning and quite unexpectedly said, "I want you to take over the drama editorship tomorrow."

I was taken aback by that, and said nothing immediately. Finally, I said, "I can imagine complications in a thing like that."

I said it was something that I would have to think over.

He said for me to think it over and let him know later what conclusion I had reached.

I pointed out to Mr. Swisher before departing that I had been the spokesman for this committee, and when I had said I believed there should be a higher salary paid for the position of drama editor, that I had no notion that I was speaking for myself.

(Testimony of James Francis Crow.)

I said I wouldn't—I shouldn't like anyone to think that the transfer of the title to me would make any difference in my activity in the Guild.

Later I went back to Mr. Swisher and told him that I would not consider taking the title of drama editor until he had spoken to Miss Yeaman and given her an opportunity to give her views on the matter.

At that meeting Mr. Swisher told me that the order was not his own; that it had come from Judge Palmer. [216]

Before this second meeting broke up, I suggested to Mr. Swisher that he divide the raise in pay and leave the title as it had been; and Mr. Swisher said, "There is no more money in the budget for Elizabeth."

After I became drama editor, I tried very hard, in cooperation with Miss Yeaman, not to let this fact arouse jealousy among us, and not to let it interfere with our hundred percent action as a Guild Unit.

From time to time Mr. Swisher called me into his office and urged me to take over this assignment, or that assignment, on the ground that it was my prerogative as drama editor; and from time to time, after conferring with Miss Yeaman, I would go to him before assignments were assumed and explain why they were being done in such a way so as to anticipate his objection to my not covering the more important shows.

(Testimony of James Francis Crow.)

When I came back from my vacation in the Summer of 1937 Pat Killoran came to me and said that the Citizen-News Company Union was active among the business office employees who had signed the agreement I referred to.

Mr. Sargent: Excuse me. Was there any representative of the management present at that time?

The Witness: I don't recall any representative of the management was present at that time.

Mr. Sargent: I ask that the statement that Pat Killoran came to him and made a certain statement go out as not [217] binding on the management.

Trial Examiner Kennedy: Granted. It will be stricken. We will have a short recess.

(At this point, a short recess was taken, after which proceedings were resumed as follows:)

Mr. Sargent: Mr. Examiner, before the recess Mr. Persinger called to my attention what I assume will be Board's Exhibit 10 for Identification, which is a self-serving statement addressed by Mr. Crow to employees of the Citizen-News in the business office.

I have no objection to this being introduced into evidence if it is for the purpose of showing what Mr. Crow or the Guild were doing with regard to business office employees. I certainly have an objection to it if it is to be at all binding upon the management, and have never seen it before now.

I would like to know before I consent, or object,

(Testimony of James Francis Crow.)

what the purpose for submitting it in evidence may be.

Trial Examiner Kennedy: I don't see how it could be binding on the management.

Mr. Persinger: If the Examiner please, it merely completes the picture of the history of the Guild organization. There is no charge of any Company-dominated Union in this case, no issue of Company domination here. I think it is admissible for one other purpose, however, which is to show [218] in conjunction with the witness' testimony that a number of the employees in the business office at this particular time, namely, the time when the referendum of the Guild had been completed and it had been decided to take in employees who were not editorial employees, that at that time a number of employees in the business office felt that there was an effort being made to organize them into an independent union; that they came to Mr. Crow about that; that Mr. Crow sent out that letter for that reason.

As I say, there is no 8(2) charge here. We are not going into the question of whether the Welfare Association was Company-dominated or not, but it does complete the history of the organization, and it explains why the organization was begun in the business office at that particular time.

Trial Examiner Kennedy: I think the most significant point of all this is the entire absence of

(Testimony of James Francis Crow.)

any 8(2) charge. There is no 8(2) charge here.

Mr. Persinger: That is right.

Trial Examiner Kennedy: I think in the absence of any 8(2) charge, it would be admissible.

Mr. Sargent: I want to be as cooperative as I can. If this is being introduced solely to show the activities of the Guild in regard to the business office, and if for that purpose alone, I will withdraw the objection.

Mr. Persinger: I say it is also to show the reaction [219] of certain of the employees to matters that were going on at that time. It doesn't tie the Company up with it. But their reaction is a matter of importance.

Mr. Sargent: As I say, your Honor, I will remove my objection if it is for that purpose alone. If it is for other purposes, then I would have to object to it.

Trial Examiner Kennedy: I think in the absence of any charge under Section 8(2), I really can't see much merit in the objection. As a matter of fact, it seems to me that it is just exactly the reverse. That would be more or less the logical conclusion.

So it will be received in evidence.

Q. (By Mr. Persinger) Mr. Crow, I will show you Board's Exhibit 10 for Identification and ask if you recognize it? A. Yes, I do.

Q. Now, you started to explain the circumstances which led up to your writing of this.

(Testimony of James Francis Crow.)

Mr. Persinger: I will offer it in evidence at this time, Mr. Examiner.

Trial Examiner Kennedy: It will be so received.

(Thereupon, the document above referred to was received in evidence and marked as Board's Exhibit No. 10.)

Q. (By Mr. Persinger) Now, will you continue with your [220] explanation?

A. As I was saying before the recess, when I returned from my vacation in the Summer of 1937, I learned that representatives of the Citizen-News Welfare Association had interviewed certain persons in the business office with a view toward including business office employees in the Citizen-News Welfare Association.

I was much exorcised about that because this activity of the Citizen-News Welfare Association representatives coincided with the ratification of the American Newspaper Guild's resolution to adopt the industrial form of organization. The referendum which had just been completed at this time would have permitted us to extend our editorial organization into the business office.

I prepared a letter.

Q. That is the letter I have just shown you, marked Board's Exhibit 10?

A. Yes. In conference with Roger Johnson, Mel Scott, Patricia Killoran and others, I prepared that letter and sent it to the homes of a number of business office employees.

(Testimony of James Francis Crow.)

I explained to the management later that I sent the letter to the homes so as to avoid undue disruption of office routine which might have occurred upon the receipt of so many letters during working hours.

To obtain those home addresses, I approached Marguerite [221] Thompson, the switch-board operator, and asked her, as I had done before, for the home addresses of various employees.

After the letters had been sent, Marguerite Thompson told me that I had got her in a jam by obtaining these addresses from her, and I attempted to shield her with Mr. Young when he approached my desk, and I told him that Miss Thompson had not known for what purpose I had obtained the addresses, and that I had obtained them from her by twos and threes and fours in such a way that she had no reason to believe there was anything unusual in my request.

Mr. Young said, "Nevertheless, she shouldn't have done it," in spite of the fact, as I pointed out to Mr. Young, that I had never encountered any objection before.

Subsequently when I called the switch-board for the phone numbers and addresses of other employees, I was questioned by the switch-board operator—in this case Mary Gile—as to what purpose I intended to put them.

After these events I have just described, I began organizational activity under the supervision of

(Testimony of James Francis Crow.)

Roger Johnson in departments other than the editorial. One of the early applicants was S. C. Montrose, who came to me for a Guild card. At the time he took out the Guild card which I tendered him he suggested to me that we should have Harry Brandon, the advertising manager, in the Guild. Montrose told me that Harry Brandon's membership would make Guild organization easy [222] among certain persons in the display advertising department.

I didn't commit myself as to the proposal to extend membership to Harry Brandon. Later I conferred with Carl Barrett, Henry Braden, James Fisher and Ernest Belt as to the proposal of making Harry Brandon a member of the Guild.

The consensus was among members in the display department that Harry Brandon should not be a member of the Guild, and I was faced with the prospect of offending Harry Brandon by denying him membership in the Guild directly, or with the prospect of having Harry Brandon become a member of the Guild and possibly working against us.

To solve this problem I talked to Pearl Barrett, and we conceived a plan whereby we would deny membership to Harry Brandon without a direct personal refusal. That plan took form in a resolution drawing the lines of eligibility throughout the Citizen-News plant. And I told Pearl Barrett and others that in addition to denying Harry Brandon mem-

(Testimony of James Francis Crow.)

bership, it had the additional utility of making 100% Guild organization possible throughout the plant so that not only in the editorial department but that in other departments we could state what we believed to be the Judge's personal requirements for a Guild shop.

After the resolution had been prepared by me, in conference with Barrett, Fisher, Belt and others, I called a meeting of Guild members on the Citizen-News, relinquished the [223] chair, and spoke in behalf of this resolution which had been prepared by Selby Calkins.

There followed a long and stormy session at which S. C. Montrose spoke against the resolution on the ground that it would deny membership to Harry Brandon. The resolution was passed, however, with only three dissenting votes.

Consequently I was told by members of the display department that Harry Brandon had ordered them to report for work on Saturdays, as they had not been doing previously. I went among the display department, and asked them individually if they wished the Guild to do anything about this matter of working on Saturdays. They told me No. Nevertheless, I asked Roger Johnson if he would not speak in an unofficial way to Mr. Young to see if members of the display department might not be spared the hardship of coming to work on Saturday.

(Testimony of James Francis Crow.)

Roger Johnson told me that Mr. Young said the action had been hasty, and that he would see about it.

By this time the Guild was beginning contract negotiations in Los Angeles, and from time to time Mr. Winn would come to me and ask me when we were going to try to begin negotiations with the Citizen-News.

In this period also Miss Zuna Palmer spoke about Union activity on the Hollywood Citizen-News to me, and charged Citizen-News Unionists, without being specific, with ingrati- [224] tude toward the Judge after all he had done for his employees.

When negotiations were about to begin on the Citizen-News, I went again individually to members of other departments, to those who had taken out Guild cards, and I asked them to negotiate at that time for them as well as for the editorial department. With one exception they said they thought it would be inadvisable to try to negotiate for other departments. [225]

Q. Now, would you say that those seven meetings to which you have referred, the first of which was in December, the second, towards the middle of January, the other five would then be either late in January or in February? In other words, that the remaining five meetings would have taken place during the months of January and February, and perhaps early in March?

(Testimony of James Francis Crow.)

A. Do you mean that the last five meetings occurred——

Q. (Interrupting) You testified to seven meetings prior to Mr. Sargent's appearance?

A. Yes.

Q. Do you know whether there was any lapse of time between any of those, any considerable lapse of time? [233]

A. There were frequently considerable lapses of time between negotiation meetings. At one time—in fact, it was at the time of the announcement of Mr. Sargent's coming into the negotiations, the letter that we prepared for submission to the Executive Board at that time urged that meetings be held nightly in order to expedite the negotiations.

Q. Now, you said you are unable to fix the particular meeting at which severance pay was discussed. Do you remember who took part in the discussions?

A. Mr. Garrigues, Mr. Connelly, Miss Daniel, for our side, I remember definitely taking part in the discussion of severance pay; and both Mr. Sargent and Mr. Palmer participated in the discussion for the management.

Q. Of course, Mr. Sargent's participation would have been after the middle of March? A. Yes.

Q. Do you know how frequently that subject had been brought up prior to Mr. Sargent's appearance, if it had been brought up?

(Testimony of James Francis Crow.)

A. As I recall, it had been brought up on several occasions prior to the entrance of Mr. Sargent into the negotiations. I recall that on one occasion, Mr. Connelly proposed that the Guild needed either a Guild shop clause, or the severance pay clause, in order to guarantee security to its members, and that the Guild had no fixed opinion as to which one of [234] the plans for security was better.

Q. Did Judge Palmer make any remarks on that?

A. It was on that occasion, as I recall, that the question of Guild shop was reopened. The matter was reopened by our side because Mr. Swisher had spoken to me about guild shop and had asked me to explain to him in a conference in his office between himself and me. I explained Guild shop to him, and he told me that that was not the way it was explained in the first contract proposal. I insisted that it was. He insisted that it wasn't, and said that it certainly hadn't been presented that way because the Judge had just shown him the contract proposal, and the Guild shop proposition therein was different from the way I had explained it.

Mr. Swisher said to me at that time, "I have no objection to telling a man that he has got to become a member of the Guild when he gets a job here."

I told him that if that was the case, we had no argument about Guild shop because that was the essence of Guild shop. [235]

(Testimony of James Francis Crow.)

Cross Examination

Q. (By Mr. Sargent) Mr. Crow, I show you a part of Board's Exhibit 4 entitled "Guild Notice," dated March 5th, 1938, and with the statement, "Following are the increases in weekly earnings of employees of the Glendale News-Press resulting from the recent negotiations with the Los Angeles Newspaper Guild," and I ask you whether or not you posted a notice of which that is a copy, on the bulletin board of the Citizen-News about that time?

A. I recall posting a statement of certain increases in [238] salary at the Glendale News-Press. This particular sheet here doesn't seem familiar to me except that it includes the names of several persons I know, and I don't recall on what date I posted it.

(Thereupon, the document above referred to was marked as Respondent's Exhibit No. 3 for Identification.) [239]

Q. (By Mr. Sargent) Without trying to test your memory as [240] the individual names or increases there, is it true, to the best of your recollection, that this Respondent's Exhibit 3, or that in substance, was placed there by you?

A. I would say that this is the substance except for the preamble here which I don't recall anything—that I wrote myself, or posted on the bulletin board, although it may have been posted by me.

(Testimony of James Francis Crow.)

Q. Now, you had access to the bulletin board throughout the negotiations to post notices of meetings or any other notices that you wanted to post on behalf of the Guild to the editorial employees of the paper, did you not?

A. We had the use of the bulletin board, yes.

Trial Examiner Kennedy: Whose duty was it, Mr. Crow, to post the Guild notices on the bulletin board?

The Witness: It was a duty that was not specifically assigned. Often Roger Johnson posted notices of meetings; often I did myself. Sometimes Henry Braden, who had access to the bulletin board downstairs, posted notices; and sometimes, again, they were sent downstairs by me through, for example, on one occasion, Johny Badovinac, the theatrical advertising man. It was not something that was a prerogative.

Q. Mr. Crow, at the time you had this conference of the committee of four of you with the management, and you said you suggested a raise for the drama editor, didn't you also at that time suggest raises for other people besides the [241] drama editor?

A. We did not name any person. We said that we thought it was an unhealthy condition on a paper for wages to be set at a dead level with no deviation. We said we thought that for positions of comparatively greater responsibility, there should be appropriately higher wages.

(Testimony of James Francis Crow.)

We said that such a plan kept ambition alive, and gave the employees something to work toward.

Q. To refresh your recollection, didn't you also at that time suggest on behalf of this committee a raise for Mr. Scott?

A. We went down through the entire personnel of the staff, I believe, with the possible exception of two or three. We pointed to their good work, and to the volume of the work, and to the various kinds of work, and in the case of Mel Scott, we talked about the attention that had been drawn to his editorials, spoke about his competence in general.

As I recall, I spoke about the help he had been to us in the drama department in the writing of reviews, reviews which I seldom touched a pencil to other than marking the paragraphs; and from such comment as that, attempted to show that editorial department salaries were low.

Q. Didn't you actually at that time, after discussing Mr. Scott's qualifications, suggest a raise for Mr. Scott?

A. I think we suggested a raise for Mr. Scott, and also many others. [242]

Q. Didn't you also suggest a raise for Mr. Reuter?

A. We suggested that one of the positions for which a peak or unusual salary should be paid was the position of Number One man on the copy desk.

Q. And the position that you were talking about at that time was that held by Mr. Reuter, wasn't it?

(Testimony of James Francis Crow.)

A. In my own mind, I assumed at that time that that was the Number One position on the copy desk, although Mr. Swisher might have assumed something different.

Q. Now, as a matter of fact, you also suggested at the time a raise for Claude Newman, didn't you?

A. We suggested that the position of sports editor should be paid a salary higher than that of the dead level salary.

Q. As a matter of fact, isn't it true that all these three, in addition to yourself, were given raises shortly thereafter?

A. I know that I was given a raise shortly thereafter. I believe I can say that is true.

Q. And it is true as to the other three, too; is that correct? A. That was—— [243]

Q. Now, coming down to the negotiations as to which you testified on your direct testimony yesterday, at the meetings with Judge Palmer and Mr. Young before any attorney came in [247] on their behalf, approximately how many members of the Unit were usually present at those meetings?

A. If I had to name an average figure, I would say eight.

Q. Would you say that that would be an average figure for the negotiations that took place after the attorney came into the picture?

A. I think that the attendance increased with the employment of an attorney.

(Testimony of James Francis Crow.)

Q. After I came in as attorney, you would say that the number at the meetings increased; is that right?

A. As I recall, the number was greater.

Q. What would you say was an average number of Unit members apart from the negotiating Committee, which attended the various meetings at which I represented the paper?

A. I would say ten, with the objection that I find it difficult to name an average figure.

Q. At one or two of the meetings, nearly the entire Unit was present, was it not? A. Yes.

Q. I show you Board's Exhibit 4, and ask you whether or not you recall the first letter, a copy of the first letter addressed to Judge Palmer, and ask you what that is?

A. That seems to be the same letter that Mr. Garrigues showed me.

Q. Well, this is merely for the purpose of getting a proper [248] history in the record.

I ask you whether or not that is not a letter addressed to Judge Palmer under date of December 15th, 1937—

Trial Examiner Kennedy: Pardon me. Is that the original or a copy?

Mr. Sargent: A copy.

Q. (Continuing) Under date of December 15th, 1937, asking for an appointment with him to negotiate with the paper for the Guild? A. Yes.

(Testimony of James Francis Crow.)

Q. And I ask you whether or not the next letter is not a copy of a letter under date of the following day, December 16th, from Judge Palmer to Mr. Garrigues stating that Wednesday afternoon, December 22nd, at 5:00 o'clock, would be the first date which would be available? A. Yes.

Q. I ask you whether the third letter is not a letter from Mr. Garrigues under date of December 17th, 1937, to the Judge, thanking him for his letter of December 16th, and confirming the appointment?

A. Yes.

Q. Now, following this correspondence with regard to a meeting on December 22nd, Mr. Crow, was such a meeting held on or about that date?

A. Yes. [249]

Q. And that is the meeting as to which you testified yesterday as being the first meeting that you can recall? A. Yes.

Q. And at that time did the Guild present as its proposal to the paper the next document in Exhibit 4, or a carbon copy of that portion of the Exhibit?

A. I believe that is a copy of the contract proposal submitted by us.

Q. And it was this particular proposal which you discussed in your testimony yesterday as having been discussed at the first meeting between the Guild and the publisher? A. Yes.

Q. Now, then, was it understood at the first meeting that the management would make a counter proposal to the Guild's submitted proposal?

(Testimony of James Francis Crow.)

A. I believe that was the understanding.

Q. And I ask you whether or not on or about January 4th, 1938, the management, through Judge Palmer, did submit its first counter proposal?

A. Yes.

Q. I show you the next letter in the file known as Board's Exhibit 4 and ask you whether or not that is a letter from Judge Palmer to the Los Angeles Newspaper Guild enclosing for its consideration copy of the changes which the management believes should be made in the formal agreement sub- [250] mitted by the Guild? A. Yes.

Q. And turning to the next document in Exhibit 4, I ask you whether or not that is the management's first counter proposal submitted with the letter of January 4th?

A. I believe it is the same document.

Q. And in your testimony of yesterday, you referred to one or two of the discussions which took place as a result of that, did you not?

A. Yes.

Q. Now, in this document known as the management's first counter proposal, it eliminated Article 2 referring to the Guild shop, did it not? A. Yes.

Q. I ask you whether or not that document contains some modifications under Article 3 relating to classification of employees in the editorial department?

A. You mean some modifications over the proposal submitted by the Guild?

(Testimony of James Francis Crow.)

Q. Some modification of the proposal submitted by the Guild? A. Yes.

Q. Then I ask you whether or not with regard to Article 4, as to salaries, some changes were not made in this document of the salary scale set forth in the Guild's proposal? [251] A. Yes.

Q. I ask you whether or not there was not a modification of the Guild's proposal relating to the five-day week?

Mr. Persinger: If the Examiner please, may I inquire the purpose of this? If it is merely to identify the document, I have no objection because the documents are there and can be compared by anybody who reads the Exhibit.

Trial Examiner Kennedy: I think the objection is sound, unless you desire to examine the witness as to particular changes, as to what the changes were and the negotiations and discussions that may have been had with reference to the changes, because I believe the document from which you are reading, when compared with the other document, would set forth all the changes.

Mr. Sargent: Mr. Examiner, I would like to have the record show in brief the history of what took place. I was not intending at this time to go into details, but later on it may be necessary to do so.

Trial Examiner Kennedy: I see what you have in mind, and if you keep within certain limits, it will be perfectly unobjectionable.

(Testimony of James Francis Crow.)

Q. (By Mr. Sargent) Was there a change in the first counter proposal of the management with regard to the wording of the 40-hour five day week as contrasted with that of the Guild proposal? [252]

A. I believe there was a change.

Q. And was there a change as to the overtime provision? A. I couldn't say about that.

Q. As a matter of fact, whenever anything was accepted by the management, it simply approved it without making any additional language in its counter proposal; didn't it?

A. I couldn't say about that.

Q. Were there changes in the management's first counter proposal with regard to severance indemnity? A. Yes.

Q. Sick-leave was left the same way, was it not?

A. As I recall, there was a change in sick-leave.

Q. There was a change as to the article on expenses, was there not? A. Yes.

Q. Generally speaking, the Guild's proposal, and the management's first counter proposal didn't exactly click, if I may use the expression; is that correct? A. That is correct.

Trial Examiner Kennedy: In other words, after the counter proposal was received, there were then certain well-defined differences between the employer and the Guild to be negotiated; is that correct?

The Witness: Yes.

(Testimony of James Francis Crow.)

Q. (By Mr. Sargent) And it was after the receipt of the [253] management's first counter proposal that the Guild had its meeting to which you referred, and about which you testified yesterday?

A. You mean the Unit?

Q. Yes, the Unit? A. Yes.

Q. Now, I come to the next letter in the file, which is a copy of a letter apparently from Mr. Garrigues to Judge Palmer under date of January 11th, 1938, and ask you whether or not the substance of that letter is, or was, to the effect that the Unit had examined the changes proposed by the management, were unable to understand the reasons for some of the same, and that the Unit requested a second meeting as soon as possible?

A. I don't understand your question.

Mr. Sargent: Read the question, Mr. Reporter.

(The question referred to was read by the reporter, as set forth above.)

The Witness: Yes.

Q. (By Mr. Sargent) I ask you whether or not the next letter under date of January 12th, from Judge Palmer to Mr. Garrigues, is not to the effect that the management appreciated the employees' position and would like to present to the employees the reasons for their changes, and suggesting 5:00 o'clock of Friday of that week as a date for the meeting? [254] A. Yes.

Q. Now, then, you testified yesterday that there were a number of meetings following the first two

(Testimony of James Francis Crow.)

meetings, about which you gave some testimony. Were such meetings held prior to the letter of Judge Palmer to the Los Angeles Newspaper Guild on February 9th, which is the next letter in the file?

A. Yes.

Q. And did this letter of February 9th, of Judge Palmer to the Newspaper Guild, submit the management's second counter proposal to the Guild?

A. Yes.

Q. I ask you whether the next document in Board's Exhibit 4, the file, is not the management's second counter proposal to which we have just referred?

A. (Examining document) As I recall, this is the second counter proposal of the management.

Q. And did someone on behalf of the Guild make certain marks upon here after receiving the same; that is, are certain of the articles signed with initials by somebody on behalf of the Guild?

A. I don't know that it was done on behalf of the Guild. I am not familiar with the initials.

Q. This appears to be the original of the second counter proposal, does it not?

A. I couldn't say. [255]

Mr. Sargent: Do you want to stipulate, Mr. Persinger?

Mr. Persinger: I will stipulate that those notations were made by some of the Guild members, or members of the Bargaining Committee—I don't know which—but made by the Guild.

(Testimony of James Francis Crow.)

Mr. Sargent: Yes.

Q. Now, then, glancing over this management's second counter proposal, we see certain notations in the margin, mostly in ink, one or two in pencil, and we find going down the document a number of "O. K.'s", do we not? A. Yes.

Q. And we find certain marks indicating that changes were desired, do we not? A. Yes.

Q. But in this document, at least, there were various articles where the proposal of the management was satisfactory to the Guild; is that true?

A. Some of the proposals of the management were satisfactory to the Guild.

Q. For instance, that of Article 6, accumulation of time for overtime and its liquidation, was deemed by the Guild to be satisfactory, was it not?

A. You say, "deemed by the Guild?"

Q. Deemed by the Guild negotiators or the persons in the Guild who made the notations on the contract? [256] A. Yes.

Q. That is true of computation of length of service for severance pay, was it not; that is, to include only full time service? A. Yes.

Q. And that with regard to reduction of loans, advances or debts to the publisher being deducted from any sums due employees upon resignation or discharge, that was deemed to be satisfactory, was it not? A. Yes.

Q. And the sick-leave clause was deemed to be satisfactory, was it not? A. Yes.

(Testimony of James Francis Crow.)

Q. And I will ask you whether or not there were other provisions contained in the management's second counter proposal which were deemed by the representatives of the Guild to be satisfactory?

A. Yes; by that particular negotiator or representative.

Q. And those agreements that had been reached on those clauses served as the basis for continuing negotiations on the things on which there was disagreement; isn't that true?

A. I assume that is true.

Q. Now, then, I ask you whether the next letter in the file is not a copy of a letter under date of February 23, 1938, from Mr. Garrigues to Judge Palmer; is that right? [257]

A. Yes.

Q. I ask you whether that letter doesn't start, "Dear Judge Palmer:

"I feel I must apologize for our failure to send you the outline of the Guild's present position which we promised you at our last meeting."

Is that correct? A. Yes.

Q. And then, "I imagine you realize that the amount of work incident to the critical situation in Glendale has made it extremely difficult for the Negotiating Committee to give the Hollywood negotiations the attention they deserve. The Citizen-News Unit has met and considered the matters involved. As soon as the decisions reached can be digested, they will be transmitted to you."

(Testimony of James Francis Crow.)

Is that what the letter states?

A. The letter so states.

Q. Now, then, prior to this meeting, there had been one or two other meetings between the negotiators for the Guild and the publisher, had there not?

A. I am sorry.

Trial Examiner Kennedy: Will you read the question, Mr. Reporter?

(The question referred to was read by the reporter, as set forth above.) [258]

Mr. Sargent: Strike that question entirely, please.

Trial Examiner Kennedy: The request will be granted.

Q. (By Mr. Sargent) Do you recall whether or not there was a meeting held between the management and the Guild to discuss the management's second counter proposal?

A. Yes.

Q. Do you know approximately when that meeting took place?

A. I don't recall the date.

Q. It was sometime between the dates of its submission on February 9th and the letter of Mr. Garrigues on February 23rd, is that correct?

A. I can't say.

Q. It must have been between the two, between the date when the proposal was submitted on the 9th of February and Mr. Garrigues' letter on the 23rd; isn't that true?

A. (No response.)

Mr. Sargent: I am afraid the witness feels I am trying to catch him, but I am not.

(Testimony of James Francis Crow.)

The Witness: It is not that. It has a hypnotic effect.

Q. (By Mr. Sargent) Well, there was a meeting between the two dates, was there not, at which the management's second counter proposal was discussed? A. Yes.

Q. Then at that meeting wasn't it understood that the Guild was to express its position again on the proposal, the [259] second counter proposal submitted by the paper? A. Yes.

Q. The next document in the file is the letter of March 5th entitled "Guild Notice," showing certain increases in salary of employees on the Glendale News-Press resulting from the recent negotiations with the Guild. That is the notice about which you testified yesterday, is it not? A. Yes.

Mr. Sargent: It was simply put in the file, I take it, to have a chronological record of what was taking place day by day.

Q. You are unable to fix with any degree of certainty when between February 9th and February 23rd—that is the date of the submission by the management of its second counter proposal, and the Garrigues letter apologizing for delay, when that meeting took place?

A. I am unable to state that.

Q. Now, we come to the next letter. I ask you whether or not that is not a copy of a letter under date of March 9th, 1938, to Judge Palmer from the Committee, being about four and a half pages,

(Testimony of James Francis Crow.)

giving the Guild's position on the then date of negotiations and the provisions as to which there was disagreement? A. Yes.

Q. I ask you whether or not this letter is single-spaced? [260] A. Yes.

Q. And does it not go into detail as to various questions as to which the management and the Guild negotiators were at that time not in accord?

A. Yes.

Q. And in particular, was there taken up in that letter the question of Guild shop and severance pay?

A. Yes.

Q. And was the five-day week and overtime taken up in that letter? A. Yes.

Q. And were wages for the various classifications of employees taken up in that letter?

A. Yes.

Q. And were expenses, term of contract, and a few other provisions also mentioned in the letter?

A. Yes.

Q. I ask you whether or not with one limitation the management's provision with regard to mileage was not accepted in that letter?

A. In so far as it was within the power of any negotiator to accept anything, that is true.

Q. I wasn't attempting to say it was binding on the Guild; but the negotiators had accepted it with that reservation? A. Yes. [261]

Q. I ask you whether that letter doesn't contain this statement: "Since other provisions depend

(Testimony of James Francis Crow.)

to a certain extent upon the provisions discussed above, it is impossible at this time to state finally which other provisions the Guild would insist upon retaining."

Is that true? A. Yes.

Q. And doesn't it also contain this sentence: "It is the understanding of the Guild, however, that except where the management has proposed the elimination of a paragraph or phrase, such paragraph or phrase is acceptable to the management."

Is that there in the letter? Yes.

Q. Does the letter also contain the sentence, "We also understand that where the management has suggested amendment of only a particular portion of a section or paragraph, the remainder of the section or paragraph is acceptable?" A. Yes.

Q. Then the letter ends by the expectation of an opportunity of an early meeting and an early agreement? A. Yes.

Q. Is the wording to that effect: "We trust that the above sets forth the position of the Guild with sufficient clarity, and that we may soon have the opportunity of a meet- [262] ing looking toward an early agreement." A. Yes.

Q. Now, do you know which negotiator wrote that letter to Judge Palmer? A. I do not.

Q. To the best of your recollection, was it not Mr. Garrigues?

A. I would have to qualify that to say that all of that correspondence was probably made the subject

(Testimony of James Francis Crow.)

of discussion, so that unless his name was attached to it, I wouldn't know.

Q. Now, before that letter of March 9th had been sent to Judge Palmer, there had been a meeting of the Unit to discuss those various matters, had there not?

A. I can't say that there was a meeting of the Unit from which the letter resulted.

Q. Well, had there been general discussions, if not a regular meeting, amongst the Unit members and the consensus of opinion obtained before the member of the negotiating Committee sent that letter of March 9th to Judge Palmer?

A. There was certainly discussion; whether a consensus was obtained in any regular way, I can't say.

Q. But the various matters contained in that letter had been discussed at least between the negotiators and the members of the Unit prior to the sending of that letter? A. Yes. [263]

Q. Now, then, on March 14th there appears to be an original of a letter from Judge Palmer to Mr. Garrigues with regard to bringing in an outside attorney.

I ask you whether or not the next letter in the file does not refer to Judge Palmer's bringing in Willis Sargent to represent him in his negotiations with the Guild? A. It does.

Q. I ask you whether or not that letter doesn't say that, "I am asking Willis Sargent to represent

(Testimony of James Francis Crow.)

us in an effort to complete a contract with the Guild, in the belief that he can bring this matter to a head where I haven't the talent to do so. I am asking Mr. Sargent to contact you and arrange with you for conferences."

A. It so states.

Q. And on March 16th, does it appear from the file that Mr. Garrigues wrote Judge Palmer saying: "Thank you for your letter of March 14th.

"Inasmuch as the method of conducting negotiations was considered at some length during our previous meetings, your letter has been referred to the Citizen-News Unit by the Executive Committee.

"We will notify you of the Unit's action within a day or two.

"With best personal regards."

A. Yes. [264]

Q. Then I ask you whether or not the next letter isn't a letter under date of March 19th, 1938, from the Los Angeles Newspaper Guild, Citizen-News Negotiating Committee, by C. H. Garrigues, to Judge Palmer?

A. Yes.

Q. Does that letter refer to the retaining of Willis Sargent as the negotiator for the management?

A. Yes.

Q. And did the letter contain a request that a meeting be held on Tuesday, March 22nd, at 7:30 P. M. to resume negotiations?

A. Yes.

(Testimony of James Francis Crow.)

Q. Did it state that it was the desire of the Unit that all members of the Unit be permitted to attend, and that nightly meetings be held thereafter until the negotiations are completed? A. Yes.

[265]

Q. Now, prior to March 25th, 1938, was there a meeting between the Guild and the management represented by me, and was the date of that meeting on or about March 22nd, as requested in Mr. Garrigues' letter?

A. As I recall, there was a meeting, a negotiation meeting at which you were present, on March 22nd.

Q. Then was there another meeting on March 25th at which I represented the management and negotiated with the Guild on behalf of the management?

A. May I refer to that? (Indicating Board's Exhibit 4).

Q. Surely.

A. (Examining document) Yes, there was.

Q. Were you present at both of those meetings?

A. I was present at the beginning of the first meeting, certainly. I do not recall how much, if any, of the second meeting I attended. I do know that I reported late to the newspaper office from some assignment. I recall that the meeting had broken up at that time.

Q. Now, on March 25th, 1938, did the Negotiating Committee of the Los Angeles Guild write to

(Testimony of James Francis Crow.)

Judge Palmer that they had met twice with me, thoroughly discussed with me the Guild's proposal as outlined in the letter of March 9th? A. Yes.

Q. Did it also say that Mr. Sargent had given his final [269] approval on all essential matters discussed, and that these proposals were not acceptable to the Guild? A. Yes.

Q. Were there other matters contained in that letter with regard to negotiations? A. Yes.

Mr. Sargent: I have no objection to counsel bringing out the rest of this letter. I am simply trying to take up no more time than necessary. I will be glad to have you bring out all parts of the letters that you desire to, which I do not bring out.

Q. Now, on March 28th, did Judge Palmer write a letter to the Los Angeles Guild replying to the Guild's letter of March 25th? A. Yes.

Q. And is that the next letter in the file which you see in front of you? A. It appears to be.

Q. Did Judge Palmer say, "Within the next few days we shall confer, and will again communicate with you?" A. The letter so states.

Q. And did he also say, "I appreciate the expression of friendly feeling. I sincerely hope that regardless of honest differences of opinion, it will continue?" A. Yes. [270]

Q. You took that to mean an expression of friendly feelings of the Guild for Judge Palmer; is that correct? A. (Pause.)

(Testimony of James Francis Crow.)

Q. I wasn't trying to include myself in those words. That friendly feeling was between the Guild and Judge Palmer?

A. I assume that there was an expression of friendliness in the exchange of letters.

Q. I show you the next document, and ask you if that is a copy of a wire under date of April 2, Mr. Garrigues from Judge Palmer saying that he and I could meet with the Guild next Tuesday night, and if not satisfactory, please contact him for another day? A. Yes.

Q. Now, was there a meeting held on or about April 6th, if you can recall?

A. I do not recall the dates of the meetings.

Q. Well, on or about April 6th? A. Yes.

Q. And were you present at that meeting?

A. I don't remember.

Q. Now, I ask you whether the next letter in the file is not a letter from Judge Palmer to the Los Angeles Newspaper Guild, under date of April 16th, to the effect that it was the understanding at the last meeting on April 6th that the management was to reduce its offer to writing, present the [271] same to the Guild, and that two copies of the same were included with this letter? A. Yes.

Q. I asked you to look at the next document and ask you whether or not the next document in Board's Exhibit 4 is not a copy of the new agreement submitted on the 16th of April by the management to the Guild Negotiating Committee?

(Testimony of James Francis Crow.)

Trial Examiner Kennedy: That is, a proposed agreement?

Mr. Sargent: Yes.

The Witness: It appears to be.

Q. (By Mr. Sargent) And if that is not designated as the management's third counter proposal to the Guild? A. It is so designated.

Q. Is there this difference between the first counter proposals and this proposal, that this purports to be a complete agreement and not merely a statement eliminating certain provisions and putting in scraps of others?

A. This purports to be a complete agreement.

Q. I ask you whether or not that isn't about seven and a half pages long? A. Yes.

Q. I ask you whether or not the next letter in the file is not a letter by Mr. Phillip Connelly for the Bargaining Committee, under date of April 21, 1938, addressed to Judge Palmer? [272]

A. Yes.

Q. I ask you whether or not in Mr. Connelly's letter, he doesn't say that he has had a telephone conversation with Judge Palmer, and that the Unit had authorized a written statement of its proposed changes in the management's offer of April 16th, whether that was not conveyed by the Bargaining Committee to the Citizen-News Unit officers?

A. Yes.

Q. And as a result, that there had been delivered to the Bargaining Committee a memorandum signed

(Testimony of James Francis Crow.)

by the members of the Unit, instructing the Committee to make another attempt to obtain a meeting with Judge Palmer? A. Yes.

Q. Does the letter contain a statement that the Unit suggests that such a meeting be arranged by notifying either Mr. Connelly at his telephone number, or Miss Daniel at hers? A. Yes.

Q. Does the letter then say, "As I outlined in our telephone conversation this morning, Judge, the Citizen-News Unit has indicated a belief that the April 16th proposals form a basis for what could be an acceptable agreement, provided certain clarifications and some specific changes were made"? A. The letter so states. [273]

Mr. Sargent: Again I say that any time, Mr. Persinger, you want to bring out the rest of the letter, you may do so. I am simply trying to save time by not bringing out all of the contents except that which is pertinent.

Q. I ask you whether or not the next letter in the file, Board's Exhibit 4, is not a letter under date of April 22nd from Judge Palmer to Mr. Philip Connelly for the Bargaining Committee of the Guild? A. Yes.

Q. And did Judge Palmer then express the opinion that it would be best if the Guild submitted their demands or proposals in writing? A. Yes.

Q. I ask you whether or not the next letter in the file is not a letter under date—a copy of a letter

(Testimony of James Francis Crow.)

Trial Examiner Kennedy: That is, a proposed agreement?

Mr. Sargent: Yes.

The Witness: It appears to be.

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Q. I ask you whether or not the next letter in the file, Board's Exhibit 4, is not a letter under date of April 22nd from Judge Palmer to Mr. Philip Connelly for the Bargaining Committee of the Guild? A. Yes.

Q. And did Judge Palmer then express the opinion that it would be best if the Guild submitted their demands or proposals in writing? A. Yes.

Q. I ask you whether or not the next letter in the file is not a letter under date—a copy of a letter

(Testimony of James Francis Crow.)

under date of May 2nd, 1938, from Urcel Daniel for the Negotiating Committee? A. It is.

Q. I ask you whether or not that letter doesn't suggest a change as to the duration of the contract for certain provisions? A. Yes, it does.

Q. I ask you whether or not it also expresses some disagreement on the question of classifications?

A. Yes, it does. [274]

Q. Whether or not it doesn't express some inclination for a clearer restriction on salary reductions? A. It does.

Q. I ask you whether or not the letter doesn't state, "As Mr. Connelly mentioned in his letter, the Citizen-News Unit has indicated a belief that the April 16th proposals form a basis for what could be an acceptable contract, provided clarification and changes were made"?

A. The letter so states.

Q. And doesn't it end with the expression, "It is the hope of the Negotiating Committee as well as the Unit that such changes can be made as quickly as possible, so that we shall have a contract ready to sign in the very near future"? A. Yes.

Q. Now, then, was there a meeting, or were there any meetings following this letter of May 2nd, of Miss Daniel? A. Yes.

Trial Examiner Kennedy: Meetings of whom?

Mr. Sargent: Between the Guild and the management.

(Testimony of James Francis Crow.)

Trial Examiner Kennedy: Of the Negotiating Committee and the management?

Mr. Sargent: Yes.

The Witness: Yes.

Q. (By Mr. Sargent) Was there such a meeting held at the plant on or about the 6th of May of this year? [275]

A. On or about.

Q. Was the result of that meeting that I was asked to submit revised proposals on behalf of the management to the Guild Negotiating Committee?

A. Yes.

Q. And I ask you whether or not, on or about May 9th, I did, on behalf of the management, submit a revised agreement to the Negotiating Committee for the Guild?

A. (Examining document) I don't recall.

Q. I show you the next document contained in Board's Exhibit 4, designated the file, and ask you whether or not that seven and a half page document purports to be the proposal submitted by the management on or about May 9th?

A. It purports to be.

Q. Now, then, turn to the next letter in the file. Is that a copy of a letter under date of May 11th, 1938, from Urcel Daniel of the Negotiating Committee to Judge Palmer?

A. It is.

Q. Does the letter start off by saying, "The Executive Committee of the Guild last night reviewed the negotiations on the Hollywood Citizen-News,

(Testimony of James Francis Crow.)

and was pleased to note that there is only one point of difference now remaining between us''?

A. It does so state.

Q. And does the next paragraph read that, "On this point [276] the Executive Committee, after hearing the preference of the Citizen-News Unit members, instructed the Negotiating Committee to propose this substitute wording for Article VI, Section 1? A. It does.

Q. And then is there contained the next paragraph relating to compensation for overtime and liquidation of overtime? A. It does.

Q. Does the next paragraph read: "The Negotiating Committee believes that in one very brief meeting we can settle this point, and then sign a memorandum of agreement, pending the typing of the complete contract"? A. It does.

Q. And then does the letter end by saying that, "The Negotiators will be able to meet with you again this Friday at the same time as last Friday. If that time is agreeable with you, will you please telephone me"? A. Yes.

Q. Then I ask you whether or not the next letter isn't one under date of May 12th, from Judge Palmer to Miss Daniel, stating, "I have been unable to reach Mr. Sargent today to see if he could meet with you tomorrow. I shall call you Friday as to this"? A. It is.

Q. Then is the next document in the file, the file being [277] Board's Exhibit 4, a wire to Miss

(Testimony of James Francis Crow.)

Daniel from Judge Palmer stating—this is under date of May 13th—stating, “This afternoon at 4:30 our office satisfactory for conference”?

A. Yes.

Q. And that was the time for which she requested the final conference on Friday afternoon, was it not? A. Yes.

Q. And I ask you whether or not the next document isn't a letter to Miss Daniel from Judge Palmer under date of May 13th, 1938, stating that, “This afternoon at 4:30 is satisfactory for a conference at my office. I would appreciate confirmation or rejection at the earliest possible date”?

A. It is.

Q. Now, then, was a meeting held on Friday, May 13th, in the afternoon, at the Hollywood Citizen plant, on or about that date? A. Yes.

Q. Now, were you present at that meeting, Mr. Crow? A. Yes, I was.

Q. Do you remember what discussion took place in regard to the contract at that particular time?

A. Yes.

Trial Examiner Kennedy: Who was there, Mr. Crow?

The Witness: Miss Daniel was there, Mr. Garrigues was there, for the Guild; Mr. Palmer was there and Mr. Sargent and Mr. Young, and I believe Mr. Swisher, and a large [278] attendance of observers from the editorial department, in-

(Testimony of James Francis Crow.)

cluding Roger Johnson, Claude Newman—in fact, almost all who had been present in the office at that period of the day.

Q. (By Mr. Sargent) About what time was the conference held, if you remember?

A. As I recall, about 4:30 to 5:30 in the late afternoon.

Q. It probably isn't important, but refreshing your recollection, wasn't it held at 4:30, and didn't it continue on until approximately 6:00 o'clock?

A. That was about the time, I believe.

Q. Now, do you remember what took place with regard to the contract at that meeting?

A. Yes.

Q. Will you tell us, as best you can, what took place? A. At the entire meeting?

Q. I will ask you a preliminary question: Wasn't the first part of the meeting taken up with the contract? A. Yes.

Q. Will you tell us in the first instance what took place with regard to the contract at that meeting?

A. The Guild negotiators dealt with the management's request that some provision be made for the liquidation of overtime in blocks of less than eight hours.

After considerable discussion the plan of liquidating overtime in blocks, I believe, of three or four hours in the [279] afternoon and on Saturday, as

(Testimony of James Francis Crow.)

agreed upon so that the management might adjust its working schedule more efficiently.

Q. Let me ask you whether or not that wasn't the provision which Miss Daniel, in her letter, referred to, to which there was an agreement at the present time?

A. Yes, that was the proposition.

Q. Now, you go ahead.

A. Describe the meeting?

Q. Well, was an agreement reached on that provision? A. Yes.

Q. And wasn't that the last provision as to which there had been a disagreement? A. Yes.

Q. Then do you remember one of the negotiators saying this, in substance: "We are now in full accord on the contract, but we will have to have it submitted to—" I believe he said, "the International Committee," or words to that effect, "and the Unit; but we have no doubt that it will be accepted by them"?

Was that, in substance, said?

A. Substantially that, I believe.

Q. Prior to that time, had there been a suggestion from Mr. Garrigues with regard to some of the provisions for the drama editor and the sports editor, if you recall?

A. I don't recall at that particular meeting what was said [280] about the drama editor and the sports editor.

(Testimony of James Francis Crow.)

Q. You don't recall that at the close of the meeting there was a complete agreement between the Guild and the management as to the contract with the changes that had been made; is that true?

A. As I recall, the discussions were closed and the negotiators for the Guild had come to an oral agreement.

Q. Yes. Was that oral agreement conveyed to Judge Palmer and to me? A. Yes.

Q. And did you hear Miss Daniel say to me, "Will you please get this in my hands in final form not later than Tuesday, as we have a Unit meeting that night. I want to present it to them in its final form that night," or that, in substance?

A. She asked that a written contract covering the agreement as arrived at orally be submitted.

Q. Do you remember whether she mentioned having it in her hands by Tuesday, because there was a meeting of the Unit that night?

A. I don't recall that being said.

Q. It might have been said, but you don't recall? A. I don't recall.

Q. Did I quote Mr. Garrigues correctly, if he was the one that said it, with regard to the statement that the agreement would have to be—that it would be a few days before [281] the agreement could be definitely signed, because it would have to be approved by New York, as well?

A. That is the regular procedure. If he didn't say that, it would have been done.

(Testimony of James Francis Crow.)

Q. You don't recall whether he actually said it or not? A. I don't recall.

Q. Do you recall his saying "While this requires New York's approval, we have no doubt that it will be aproved"? A. I don't recall.

Q. You don't recall whether he said it or not?

A. No.

Q. Do you recall his saying that there was no doubt but that the Unit would approve it?

A. I don't recall.

Q. Now, did that agreement as verbally approved, then contain a provision for a five-day forty hour week schedule? A. Yes.

Q. And I ask you whether or not you saw placed upon the bulletin board the following day the next two papers included in Board's Exhibit 4, entitled "Five-day, forty hour week schedule," with a second paper giving the times at which each person would come to work and leave work?

A. It appears to be. That notice was posted Saturday.

Q. And that posting was a posting which was consistent with the agreement which had been verbally agreed to on the [282] preceding afternoon, was it not? A. Yes.

Q. Now, then, after the conversations to which you have testified at this meeting on Friday, May 13th. what else occurred at that meeting, if anything?

(Testimony of James Francis Crow.)

A. The most notable thing about the meeting, one of the most notable things in the lives of the people in the editorial room, occurred near the close of the meeting when the attorney for the management, after a whispered conference with Mr. Palmer, turned around and announced that three persons were going to be discharged. It was notable to me.

Q. Let me refresh your recollection.

Do you remember before I asked that question, anything of what was said prior to that announcement being made?

A. Do I remember anything that was said prior to the announcement?

Q. By Mr. Sargent?

Trial Examiner Kennedy: With reference to what particular subject matter?

Q. (By Mr. Sargent) With regard to the subject just mentioned?

Trial Examiner Kennedy: About the discharging of three employees?

Mr. Sargent: Yes.

The Witness: I don't recall any exact wording.

[283]

Q. (By Mr. Sargent) To refresh your recollection, I ask you whether or not Mr. Sargent didn't say at that time that he felt that it was only fair to tell the various employees that as they had surmised and as had been mentioned by Judge Palmer, it would be necessary because of retrenchment, to

(Testimony of James Francis Crow.)

let certain employees go; that they knew the advertising was down and the expenses were mounting, and that after making a careful study, Judge Palmer had decided that three employees were to be dismissed.

I ask you whether that, or that in substance, was said by me at that time?

A. I recall that there was said, in substance, that because of retrenchment and reorganization, three employees were to be dismissed.

Q. You don't recall that there were any of the other things I have just mentioned said, prior to that?

A. I couldn't testify honestly to anything further, to any further wording.

Q. At any rate, you do recall that at the time I stated that the management would have to let three employees go; you remember that, do you not?

A. Yes.

Q. And do you remember that I asked if anyone had any questions to ask at the time?

A. I remember your saying, "Do you want to know who they [284] are?"

Q. To refresh your recollection, then did I ask if anybody wanted to ask any questions, and then say, "What do you want to know?"

A. I don't recall anything further in that connection than what I have just stated.

Q. At any rate, I did ask, "Would you like to

(Testimony of James Francis Crow.)

know who the three employees are?" Did I ask that? A. Yes.

Q. And was an answer given by anyone?

A. Yes.

Q. By whom?

A. By the negotiators, officially.

Q. What did they say? A. They said No.

Q. Did they also add that that was something that was in the province of the management?

A. I don't recall that because just at that time I left the room to make a telephone call.

Q. During the various negotiations, Mr. Crow, and these meetings to which you have testified, had there been discussion with regard to a clause in the management's counter proposals which was contained in the final proposal, final agreement, with regard to the employer's right to dismiss?

A. There had been discussions about such clause.

[285]

Q. And did the final agreement as agreed upon contain as Article II, "The Publisher retains full power and discretion save as limited or prohibited by law, to employ or dismiss employees, including that to determine competency or to pre-emptorily discharge any employee, and also as to the number to be employed in any department, or as to the duties of each, and may merge, increase, reduce or eliminate departments and transfer any employee from one department to another with-

(Testimony of James Francis Crow.)

out the violation in letter or in spirit of any portion of this agreement?"

A. Will you re-state the first part of the question?

(The question referred to was read by the reporter, as set forth above.)

The Witness: I don't know of a final agreement. I know that in the agreement arrived at orally at the last negotiation meeting, it was understood by the participants on both sides that a clause to the effect that the publisher had the right to hire and fire and to consolidate departments, was included.

Q. Do you remember during one of the latter meetings, a discussion in which Mr. Garrigues of the Negotiating Committee said, "This is a heel-clicking clause, and while we agree to it and you have the right to it under the law, we don't want you to put it in more than once," or that in substance?

A. That, in substance. [286]

Q. That arose out of a discussion where there had been some questions about a clause that had been submitted in one of the counter proposals as to the right to dismiss under the severance clause, severance pay clause; is that true?

A. I don't recall the exact circumstances.

Q. Such a clause had been contained in each one of the management's counter proposals, since Mr. Sargent first met with the Guild; isn't that true?

(Testimony of James Francis Crow.)

A. I would have to look over each counter proposal.

Q. Well, look over the one on April 16th, and see if the same clause isn't there as Article II?

A. It is.

Q. And look at the one in May; and didn't the one in May have the same clause?

A. The Exhibit here marked May 9th had such a clause.

Q. At no time did the Guild question that power or the Guild, through its negotiators, question that power as resting in the employer?

A. The Guild did not question the right of the employer to hire and fire whom he chose. [287]

Q. Now, then, are you familiar with the wire that was sent by the Los Angeles Newspaper Guild Executive Board, by Urcel Daniel, to Judge Palmer at 11:25 May 15th, 1938? A. 11:25 P. M.?

Q. It was Sunday night, the 15th, if I am correct? A. Yes.

Q. And did that wire state that the

“Los Angeles Newspaper Guild on request Citizen News unit tonight called strike on Citizen News for Tuesday A. M. Unit demands unconditional reinstatement of Roger C. Johnson, Mel Scott, Elizabeth Yeaman, plus contractual provision no dismissals result contract signing. Seriously urge you meet authorized committee, L. A. N. G. Executive Board, 11:00 A. M. tomorrow your office for purpose peaceful adjustment. Board now in session

(Testimony of James Francis Crow.)

awaiting your answer to my wire on suggested conference at 7933 West Fourth Street."

Do you remember that wire? [291]

A. Yes.

Q. Such a wire was sent to Judge Palmer?

A. Yes.

Q. On that date? A. Yes.

Q. Now, then, did Judge Palmer, on the 16th, that is, Monday morning, May 16th, 1938, send a messenger-delivered communication to the Los Angeles Newspaper Guild Executive Board attention of Urcel Daniel?

A. Yes. I don't know how it was sent. I know that such a letter was sent.

Q. And was such a letter received by the Guild that day? A. Yes.

Q. Did that letter say, "Greatly surprised at your wire received this morning. Demands for unconditional reinstatement of three Citizen-News Company employees with provision for no dismissals are directly contrary to contract agreed upon, and must be rejected.

"We are always willing to meet with representatives of our employees, but there can be no compromise on publisher's right to dismissal.

"Yours very truly,

"HARLAN G. PALMER,
Publisher, Citizen-News."

Was that letter received? A. Yes. [292]

PHILIP M. CONNELLY

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Trial Examiner Kennedy: Give your full name and address to the reporter.

The Witness: My name is Philip M. Connelly. Address 216 Third Street, Manhattan Beach.

Direct Examination

Q. (By Mr. Persinger) Mr. Connelly, what is your business or occupation?

A. Re-write man for the Evening Herald-Express; also member of the Los Angeles Newspaper Guild.

Q. Were you a member of the negotiating committee which met with the Respondent to negotiate a contract for the editorial employees of the Citizen-News? A. I was. [314]

Q. Do you occupy a position in the Los Angeles Guild? A. I did.

Q. What position? A. President.

Q. Since 1938? A. I have. [349]

Q. Now, as a matter of fact, how many Guild shop contracts have been signed—by Guild and newspapers in the State of California?

A. By Guild and newspapers in the State of California?

Q. By newspapers and Guild in the State of California, containing a Guild closed shop?

A. I don't know.

(Testimony of Philip M. Connelly.)

Q. Do you know of any?

A. No, I did not at that time.

Q. Do you know of any now?

A. I know of none now, actually signed, no.

[354]

PATRICIA KILLORAN

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows: [400]

Direct Examination

I remember some more of that conversation that I had with Mr. Brandon.

Q. Give us the rest of it.

A. He said we really didn't understand what we were doing to ourselves in joining the Guild, and having these outside negotiators and agitators come in and work for us. He said he had been in plenty of unions and he said he knew more about [406] unions than we would ever know, and he said if we were smart we would get out of this business.

This was on Tuesday morning. I am mixed up on that. I think it was after the strike was called.

Q. What you have just been relating is the second conversation?

A. Yes, this that I am telling now, was after the strike was called. It was the first time he talked to me about Helen being fired. [407]

(Testimony of Patricia Killoran.)

Q. What was your salary? A. \$45 a week.

Q. That was a salary you had when you went on strike, wasn't it? A. Yes. [411]

SELBY CALKINS

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Trial Examiner Kennedy: State your name and address, please.

The Witness: Selby Calkins, C-a-l-k-i-n-s, 102 North Mariposa Avenue.

Direct Examination

Q. (By Mr. Persinger) Are you commonly called "Jack"? A. Yes.

Q. You formerly worked for the Hollywood Citizen-News? A. Yes.

Q. You went on strike on May 17th?

A. Yes.

Q. What was your job?

A. I was police reporter and relief photographer, relief copy desk man, feature writer, and general utility man in the department.

Q. Did you attend a number of negotiations carried on between representatives of the Guild and representatives of the management?

A. Yes, I did.

(Testimony of Selby Calkins.)

Q. Do you remember having attended the negotiation at which [418] was discussed the job of combination reporter and photographer?

A. I do.

Q. At what meeting was that discussion raised?

A. I don't place that definitely, no.

Q. Was it at the first meeting, approximately?

A. The only way, it was not at the first meeting. The only way I can place it was at one of the early meetings at which Mr. Palmer was present.

Q. In other words, Mr. Sargent was not there. It's already been testified that Mr. Sargent came into the picture about the middle of march.

A. I don't remember whether he was or not.

Q. Do you remember who acted as spokesman for the Guild at that meeting?

A. I believe Mr. Garrigues did.

Q. And do you remember who spoke on behalf of the company?

A. I know Mr. Palmer did.

Q. And what was the discussion?

A. The discussion arose over a clause in the proposal that the Guild had submitted which would have eliminated the practice of using a photographer as a reporter or a reporter as a photographer.

Q. And what was actually said about it on both sides?

A. Well, the proposal was objected to by the management, [419] and in defense of the clause,

(Testimony of Selby Calkins.)

as I recall it, Mr. Garrigues stated that that was practically a standard provision of the Guild contracts throughout the country, with exceptions being granted in unusual cases, such as in Los Angeles where harbor reporters on the downtown papers were also permitted to serve as photographers because of the distance from their city rooms.

Q. Do you remember what Mr. Palmer had to say about it?

A. I can't quote him directly. There was an objection expressed and then the negotiators asked me to explain my feelings in the matter, and I said that I felt that I was a reporter and wanted to continue to be a reporter and didn't care much for photography or the work of covering picture assignments; and I further explained that when I had come there I had been employed as a copy desk man. That is an inside job, and when I was switched over to an outside job, I used my own camera for the paper, taking pictures on stories that I was working on as a reporter.

And I further explained that the objections were being set out, being taken from reporter work and sent out on purely photographic assignments with other reporters, which was a job for a photographer.

As I recall it then, the discussion resolved itself into a statement in general terms by Mr. Palmer. I can't remember the wording. The substance was that the paper didn't need a [420] police reporter

(Testimony of Selby Calkins.)

as such. He often thought of eliminating police work on the paper and relying on wire services for general coverage.

I felt then that I was beng told that I should either be a combination man or find a job some place else. As a result of my feeling on my part and on the feeling of other people the combination men were subsequently eliminated from the contract.

Q. Since the negotiations started back in December, have you had any conversations with your managing editor, Mr. Swisher? A. Yes.

Q. Did you have a conversation with him regarding a speed-up and stretch-up A. Yes.

Q. When?

A. That was the day after the meeting at which I was asked to give my views on the combination reporter and photographer.

Q. Where did it take place?

A. It took place in his office.

Q. Anyone else present? A. No.

Q. What was said?

A. I'd like to tell the three phases of that conversation.

Q. All right. [421]

A. At the meeting the night before, Garrigues in arguing against combination jobs in general had used in one of his general explanations the term speed-up and stretch-out. The following morning I

(Testimony of Selby Calkins.)

had completed my writing portion of my job, and along about 11:00 o'clock I had a series of phone calls to make. In the interval I was sitting at my desk.

Mr. Swisher arose from his desk which was about 30 feet from mine and walked to me and said, "Jack, the speed-up and stretch-out around here isn't bothering you any."

I said, "No." A few minutes later I had occasion to walk by the desk and he looked up at me and said, "Jack, I don't understand you."

So I started to pursue the subject a little further, and he turned his back and went back to work.

That afternoon after the paper had gone to press things had relaxed a little bit in the office, and I went into Mr. Swisher's private office and told him that I did not see what was behind his remark to me. I couldn't understand why he had singled me out for either of the two comments that had been made that morning and that apparently there was some misunderstanding in his mind. I wanted to know what it was.

He said, "Well, it's this argument about the reporter and photographer business at the meeting last night."

And I said, "Well, you know it's the Guild position to combination work on any staff, and it is written into almost [422] every Guild contract in the country, with the necessary exceptions."

(Testimony of Selby Calkins.)

I forget further details of the conversation, except toward the end he said, "Well, Jack, the Guild is off on a wrong foot this time. I'd be willing to scrap for more money for you guys, but the 5-day week wouldn't work in this staff.

I told him I couldn't discuss that matter with him, and I said it was a matter for open discussion. Any discussion between the Guild and himself and Mr. Swisher was the matter for discussion by the negotiators before the observers. I was only there to try to iron out the remarks to me.

He said that was all right, and he said he was glad I talked to him.

Q. Did you have a conversation with him at any time regarding overtime with the Guild contract or anything similar to that?

A. No, I didn't. I don't recall that. [423]

Trial Examiner Kennedy: You may ask one question.

Mr. Sargent: What was Mr. Calkins' last salary at the time he went out on strike?

Mr. Calkins: \$45 a week.

Mr. Persinger: I should like to call at this time Floyd Simonton.

FLOYD SIMONTON

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testi- [430] fied as follows:

Trial Examiner Kennedy: State your name and address.

The Witness: Floyd Simonton, F-l-o-y-d S-i-m-o-n-t-o-n, 3030 Fall Avenue.

Direct Examination

Q. (By Mr. Persinger) You formerly worked for the Hollywood Citizen-News? A. Yes.

Q. Did you go out on strike?

A. May 30th, yes.

Q. Were you on vacation at the time the strike was called? A. I was.

Q. When did your vacation begin?

A. May 14.

Q. What job did you have just before your vacation?

A. I was known as a rewrite man. I did feature work and general reporting, some work on the copy desk, and those were my major duties.

Q. What was your salary at that time?

A. \$45 a week. [431]

ALEXANDER SWAN, 3d

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Trial Examiner Kennedy: State your name and address, please.

The Witness: Alexander Swan, 3d., 8520 Ridge Path Drive.

Direct Examination

Q. (By Mr. Persinger) Mr. Swan, did you formerly work for the Hollywood Citizen-News?

[435]

A. I did.

Q. And you went out on strike? A. Yes.

Q. How long had you previously worked there?

A. Almost four years.

Q. What was your job at the time of the strike?

A. I was a general reporter. I did a very little bit of copy desk work, took some pictures, very few, was librarian—you might term it feature editor. I edited most of the syndicated features that came into the office, and a little bit of everything.

Q. When did you join the Guild?

A. December, 1936.

Q. About that time did you ever talk with an attorney for an organization of the Guild among the editorial employees of the paper?

A. I had some conversation with him.

Q. Do you remember where any of those conversations took place?

(Testimony of Alexander Swan, 3d.)

A. I believe all of them took place in the library.

Q. Were there any other persons present at any of them? A. I don't believe so.

Q. And what was said at some of those conversations?

A. He reminded me of how fair the Judge had always been to us and how it was almost ungrateful for us to join the [436] Guild against him. He said he had proved he was a fair man and is was ungrateful for us to start the Guild.

Q. Now, it has been testified that the negotiations between the Guild and the management began about December 22nd, last December, and since that time have you had occasion to see the managing editor, Mr. Swisher outside of the office?

A. I have.

Q. On what occasion?

A. Because we lived in the same general neighborhood, he would ask me to drive him to work in the mornings.

Q. How long have you been doing that?

A. Since right after the first of 1935.

Q. Several years? A. Yes.

Q. And since the first of this year, has Mr. Swisher on any of those drives to or from work ever spoken to you about the progress of the negotiations? A. Yes.

Q. And what did he say?

A. For the most part they were just more or less reminding or telling me that if we continued with

(Testimony of Alexander Swan, 3d.)

the contracts or the negotiations, I would be negotiating myself out of a job.

Q. Did he explain, why?

A. He said that if the management had granted us the wages or other provisions of the contract it would be necessary to [437] retrench and I would have to go.

Q. Were you present at the meeting on May 13th?

A. That was the last one?

Q. That was the last one before the strike.

A. I was.

Q. Did you hear Mr. Sargent state that it had become necessary to let three people in the editorial department go?

A. I did.

Q. What, or rather, did you think when you heard that statement that you were one of them?

A. I did. [438]

HENRY REYNOLDS

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Trial Examiner Kennedy: State your name and address, please.

The Witness: Henry Reynolds, 1844 Dracena Drive, Hollywood.

(Testimony of Henry Reynolds.)

Direct Examination

Q. (By Mr. Persinger) What is your business or occupation, Mr. Reynolds?

A. Newspaper man.

Q. What paper now?

A. Evening Herald and Express.

Q. How long have you been in Los Angeles?

[452]

A. Except for occasional visits approximately three months.

Q. When you first came to Los Angeles about three months ago did you look for a job?

A. I did.

Q. Approximately, or rather, among other places, did you apply for work at the Citizen-News?

A. I did.

Q. Do you remember approximately when you applied up there?

A. To my best knowledge it was about March 24.

Q. And to whom did you apply?

A. To Harold Swisher, the managing editor.

Q. Where did you see him?

A. In his office.

Q. Was anyone else present? A. No.

Q. Will you relate the conversation?

A. I inquired of the girl in the other office if I might enter. The door was closed. I entered, and I introduced myself and told Mr. Swisher I was a copy reader and asked him if there was any work

(Testimony of Henry Reynolds.)

on the Citizen-News. He couldn't tell me immediately whether there was work there for me. He asked me if I was a member of the Guild.

I said, "Technically I probably am not, because I am in arrears in my dues, but I am for the Guild and I believe in the Guild." [453]

He said, "Oh, I do too, but I don't think the Guild should dictate who the management should hire, do you?"

I do not recall my answer. Either I answered nothing or I agreed with him.

He said also that we have 100% organization here, and Mr. Roger Johnson is one of the former presidents of the Guild.

LOWELL REDELINGS

a witness called by and on behalf of the National Labor Rela- [454] tions, being first duly sworn, was examined and testified as follows:

Trial Examiner Kennedy: State your name and address, please.

The Witness: Lowell Redelings, L-o-w-e-l-l R-e-d-e-l-i-n-g-s, 3227 Selma Drive, Hollywood, California.

Direct Examination

Q. (By Mr. Persinger) Mr. Redelings, did you formerly work for the Citizen-News?

A. I did.

(Testimony of Lowell Redelings.)

Q. Did you go out on strike, May 17?

A. I did. [455]

Cross Examination

Q. (By Mr. Sargent) Mr. Redelings, on the morning of the strike, how many did you have in the Guild, including all the departments?

A. On the morning of the strike, may I ask do you mean paid up?

Q. Paid up members. [469]

A. Twenty-five.

Q. That's on May 17, 1938? A. Yes.

Q. Now, how many members, what was the highest number of members you ever had in the Guild?

A. I shouldn't answer exactly. As close as I can remember around 48.

Q. That's about the high figure as you recall?

A. Yes. [470]

Q. That is, you said in addition to the 25 paid up members the Guild had 23 other members who were not in good standing? A. Yes. [475]

Q. How many in the editorial department were paid up in their dues on the morning of May 17, 1938? [476] A. Paid to April?

Q. Yes. A. Nine.

Mr. Sargent: That's all.

Mr. Persinger: May I see the cards a moment?

The Witness: Yes.

Mr. Persinger: I have no further questioning.

Trial Examiner Kennedy: The witness is excused.

JUDGE HARLAN G. PALMER

a witness called by and on behalf of the National Labor [477] Relations Board, being first duly sworn, was examined and testified as follows:

Trial Examiner Kennedy: State your name and address, please.

The Witness: Harlan G. Palmer, 926 North Orlando, Hollywood, California.

Direct Examination

Q. (By Mr. Persinger) What is your official position with Respondent?

A. President of the Citizen-News Company.

Q. And what position do you occupy on the newspaper?

A. General manager of the newspaper.

Q. And you are also the editor?

A. Yes. I think I am entitled to the title of editor.

Q. You write most of the editorials, don't you?

A. Yes. [478]

JUDGE HARLAN G. PALMER

a witness called by and on behalf of the Respondent, having been previously duly sworn, resumed the stand and further testified as follows:

Direct Examination [482]

Q. Now, trace for us, Judge Palmer, the financial circumstances with regard to advertising during

(Testimony of Judge Harlan G. Palmer.)

the past six or eight months. Tell us, if you know, what the condition was and what you observed.

A. As near as I can recall, advertising began to fall off in August, 1937. Beginning in December of 1937, January, February, March, and April, there was a substantial decrease in the volume of advertising. At the same time in 1938 there was a substantial increase in the price of newsprint, approximately 17 per cent increase in the price of newsprint. Generally about 15 per cent decrease in the volume of advertising.

Q. What about your national advertising?

A. National advertising was off about 40 per cent. [483]

Q. Now, during the negotiations, did you at any time have a discussion with the negotiating committee with regard to any need for retrenchment?

A. I had a discussion as to the possibility or probability of retrenchment.

Q. Do *you approximately* when that took place?

A. It was in the early part of the negotiations when there was under discussion the clause in the contract which provided that there should be no dismissals as a result of the negotiations of the contract.

Q. That is the same clause I brought to Miss Daniel's attention when she was on the stand?

A. Yes.

Q. Go ahead.

(Testimony of Judge Harlan G. Palmer.)

A. I objected to the clause being in the contract, stating that it was likely to subject all of us to misunderstandings. They explained that they didn't mean by that clause that I would, that they did not mean I would be prevented from making dismissals for economy reasons, but that they meant that I would be prevented from making dismissals in the event of increases in the payroll or in the event of anything going out of the negotiations themselves. I stated that I still thought the clause would be subject to misunderstanding, and would give rise to trouble, but at said time when that occurred, we were in a period when business was off. Expenses were up, and if it were not for the negotia- [484] tions at that time we would be making reductions.

For that reason, in order to avoid misunderstanding, I didn't want the clause in. The clause was omitted from our counter-proposal. It was not raised again in their counter-proposals, which seemed to settle the discussion.

Q. Did you shortly after make any policy of retrenchment in the paper? [485]

A. Beginning as early as the first of March I began to figure out the possibility of retrenchment, and we did start in reducing the amount of space we were allocating to reading matter in order to secure a little better balance between reading matter and advertising volume.

(Testimony of Judge Harlan G. Palmer.)

We took up a policy of reducing the length of stories, the policy of eliminating coverage of certain meetings such as service club meetings; the policy of eliminating as many as possible of the feature stories that didn't have a clear and correct bearing upon news.

We reduced the space allocated to comics. The first reduction program that we put through, I can't recall all of the factors that we entered into it, the first reduction program we put through involved a total of four columns of space.

Q. Were those four columns eliminated?

A. The purpose of the whole thing was to prevent as many times as possible the increase in the size of the paper by two pages, because of over-run. When we could save two pages, we figured we should save about \$40 in the cost of the newsprint and in the mechanical costs involved in printing the same.

I think Miss Yeaman testified she had requested Mr. Swisher to eliminate as much as possible the slop-over of the drama page, to limit it to one page, because even with one page the volume of advertising didn't justify the amount of stuff we [486] were printing.

Sports were reduced by one column for the first time. That is, in quite a period. Advertising was put on the first page of the second section of the newspaper in order that we might keep the size of the paper commensurate with the advertising.

(Testimony of Judge Harlan G. Pahner.)

Then during the course of negotiations, it was the time I began the study of the five-day working week which was requested by the Guild. In connection with my studies, I continued my studies as to how we could put into effect the five-day working week and at the same time reduce the size of our staff.

At that same time we had to keep in the newspaper that which I might consider as essential, and yet at the same time keep the volume of reading matter fairly proportionate to the volume of advertising matter.

Q. Now, in pursuing this retrenchment program, did the question of increasing the number of employees on the staff arise?

A. In connection with my study of it?

Q. Yes.

A. Yes, in all my studies I had in mind.

Q. What did you find as a result of your studies in that connection?

A. Well, I found two things in connection with my studies, [487] and in this connection our managing editor is no different from any other that I ever heard about. The managing editor is always crying for more space, objecting when the amount of space that is allocated to them in the lay-out of the paper is too small; and also objecting where the material that they have to go into it is too small.

So I determined that there were two things in-

(Testimony of Judge Harlan G. Palmer.)

volved in the reduction of the staff, not only the reduction of the expense of the members of the staff, but the reduction of the volume of reading matter produced so as to force the managing editor to stop complaining about reduced space.

In connection with those studies I sought at first the elimination of three members of the editorial staff itself.

In studying the possibilities of the five-day week, I decided that only two members should be eliminated, and that if I was going to eliminate a third, I would take it from my own immediate staff, to-wit, Mr. Mel Scott.

Q. Mr. Mel Scott had been assisting you in running editorials, had he?

A. Yes, he spent the morning at the City Hall to see what information he could gather, and in the afternoon he came up to the office and went over the letters for the town meetings, and edited them for the Town Meeting column. These were also from readers and each day submitted a number of editorials to me for my consideration. [488]

In determining what staff members might be eliminated, I decided that we should eliminate one of the two members on the drama page. I was compelled to weigh the respective merits to the best of my ability, of Mr. James Francis Crow, the drama editor, and Miss Yeaman's columns.

Q. What conclusions?

(Testimony of Judge Harlan G. Palmer.)

A. It was my honest opinion that Miss Yeaman could be spared with less injuries than Mr. Crow.

Q. What led you to take that conclusion?

A. I considered Mr. Crow a better man in writing heads, in laying out the drama page, and considered him the more able person in connection with the reviews of previews.

The work that Miss Yeaman was doing, I figured we would just take the course of events and run such motion picture production news as came in by mail. That would be handled in the regular course of events, and we would rely upon two other columns that we had in our paper on motion pictures: One by Skolsky, who was with the King's Features Syndicate who left his copy each day as he wrote it; one by Ed Sullivan, of the New York Daily News Syndicate, who likewise left his copy as he wrote it.

Q. Both those columns were written in Hollywood, and before they went to their papers respectively in the East, a copy of that column would be left with the Hollywood Citizen-News, is that correct? [489] A. Yes.

Q. So you had a first hand column, two of them, written by people with a national reputation?

A. They weren't exactly the same type of columns, but they related to motion picture affairs. I don't know any newspaper with the proportion of national volume of advertising that was running

(Testimony of Judge Harlan G. Palmer.)

as much motion picture news as we were running.

In connection with the other position, I had three men to consider: Floyd Simonton, Roger Johnson, and Jake Calkins, each of whom we classified as a general reporter, each of whom [490] was being paid the same salary, \$45 a week, and I decided that we should get along with the amount of reading matter that two of the three could produce. That would eliminate the feature type of articles and the interviews and things that were not essential in my judgment in presenting the daily news.

In deciding among those three, it was my judgment that Mr. Floyd Simonton was the best reporter of the three. I liked his work the best. I thought he had a better understanding, was a more valuable man from the standpoint of major news reporting. That left the decision resting between Jake Calkins and Roger Johnson.

In some respects I preferred Roger Johnson to Jake Calkins, but I had to consider the choice on the basis of a five-day week, or at least was considering it on that basis because I felt sure all the time that eventually we would reach an agreement on a contract and a five-day week would be included in that contract.

Jake Calkins was acceptable as a photographer. Under the five-day week there would be one day of the week when the regular photographer would not be on duty. I felt it essential that we have on

(Testimony of Judge Harlan G. Palmer.)

our staff for that relief day one man who in an emergency could do the photographic work, and for that reason, and with one other factor which was of less importance—the factor that Calkins was a capable desk man, had worked on the desk a great deal, was capable of sitting in on the desk at [491] any time, and because I considered that larger experience a good thing—he should be the one that would get the call.

Q. And did you therefore come to a decision that these three employees should be dismissed?

A. Yes, I came to that decision.

Q. And you have heard Miss Daniel's testimony as to what took place the final meeting, on May 15?

A. Yes.

Q. Is there anything you want to add to what she said, or has she covered the picture as far as you recall?

A. I can think of only one thing that was said at that time by Mr. Garrigues.

When you asked whether they would like to discuss the question of what three it had been determined would be eliminated and why they were eliminated, Mr. Garrigues said since all of the members of the unit are members of the Guild, that matter is entirely within the province of the publisher.

Q. After that discussion by Mr. Garrigues, the remarks by Mr. Garrigues, did anything else take place that you recall?

(Testimony of Judge Harlan G. Palmer.)

A. Well, whether before or after, I've forgotten when Miss [492] Daniel testified, Mr. Garrigues asked us if we were willing to put the contract into effect the following Monday morning, since he considered the approval by the unit, and the approval by the New York office of the Guild, to be merely matters of formality, and I told him that I was agreeable to the matter, and since we had the five-day schedule at that time worked out satisfactorily to us, that we would put it into effect the following Monday morning.

Q. And were they put into effect the following Monday morning?

A. They were. The schedules were posted on Saturday morning.

Q. Is that Saturday, May 14?

A. Yes. Those schedules called for one man's day off that day, Herman Reuter. Mr. Reuter didn't show up for work on Monday. [493]

Q. When the checks were tendered the three dismissed employees, namely, Mr. Johnson, Miss Yeaman, and Mr. Scott, did those checks include the severance pay called for in the contract and also earned vacations? A. Yes. [494]

Q. Do you remember when the paper gave these notices of dismissal to the three employees?

A. Only by hearsay, but I assume the testimony that has been made here is correct. Possibly the notices for a five-day week, that is the posting of the

(Testimony of Judge Harlan G. Palmer.)

schedule for the five-day week was in itself notice, and in addition to that I accept the testimony offered by the employees that the notice was received the following Saturday morning. [496]

Q. Did you ever make any comment to Mr. Turner or anyone else in the organization with regard to Roger Johnson with the understanding being that his activities might be of detriment to him?

A. No, sir, I never made any comment in any way, shape, or [498] manner with reference to the activities of Mr. Roger Johnson in the Guild or otherwise.

Q. Did you ever make any comment with anyone in your organization of the activities of Mel Scott or Elizabeth Yeaman?

A. No, sir, I never discussed it with anybody or had any information from anybody with reference to it.

Q. With regard to Helen Thurlby or Karl Schlichter?

A. Never. I believe, however, that Roger Johnson came to my office and stated that the downtown newspapers were accusing me of putting him into the Guild so as to make trouble for them. Someone said that, and as long as we know the accusation, I said, as being untruthful, there is no need in worrying about that.

Q. Did there come a time shortly after the meeting of May 13, on Friday, when the retrenchment

(Testimony of Judge Harlan G. Palmer.)

program was carried into another department of the paper?

A. Yes, I did instruct Mr. Young to begin to weigh every employee under his general jurisdiction.

Q. And I believe it is already provided in the evidence, but what was Mr. Young's position?

A. He was the business manager.

Q. What was done there?

A. It was very apparent to the manager a surplus of help in the business department. By Saturday, May 14, Mr. Young had at that time but two recommendations to make. One was that if [499] in view of the fact that Mr. Schlichter's work was a lesser job, primarily for national advertising and national advertising was off,—

Mr. Persinger (Interrupting): How much?

The Witness: About 40 per cent.

(Continuing) —that his position could be eliminated. The other one was that we should eliminate in view of the curtailed paper, we should eliminate the amount of reading matter, the amount of publicity which the advertising department was seeking to get into the paper, and that that elimination could be helped by eliminating a part time assistant, Patricia Killoran, which assistant was Miss Thurlby.

Those eliminations had been agreed upon by the week-end. They were approved by myself.

Q. And were those eliminations made?

(Testimony of Judge Harlan G. Palmer.)

A. Yes, they were made. The notices, I understand, were given out on Monday morning. [500]

Q. Is there anything else, Judge Palmer, as to which I have not asked you any question, which you believe would have a direct bearing on the issues of this case which you would like to testify to or have I asked you questions which would cover which you have had in mind?

A. Well, excepting the statement that the question of anyone's union activities absolutely and positively didn't enter into any of my decisions.

[502]

Cross Examination

Q. (By Mr. Persinger) Judge Palmer, normally when do you plan your budget for each year?

A. The first of January and the first of July.

[503]

Q. Was the first six months of 1937 an unusually good year from the point of view of advertising revenue for your paper?

A. I would say it was a very good year, the first six months. [505]

Q. Now, all during '33, '34, and '35 the company made money, didn't it? A. Yes.

Q. And has the company been making money during the first six months of '38? [506]

The Witness: The newspaper lost money in the month of December and the month of January; it

(Testimony of Judge Harlan G. Palmer.)
made a little in the month of February. Lost again in the month of March. I think the total losses of the newspaper down to May 1, perhaps including May 1, were about \$1500. The total losses, beginning from January 1 to May 1. December was the heaviest loss on the newspaper, about \$3000 in the month of December alone. [507]

Q. When would you say you first decided that it was necessary to eliminate three of the editorial employees? A. That it was advisable.

Q. I beg your pardon.

A. Well, the early part of the year. I just can't answer [513] that question that way. In the early part of the year, as I say, I then deemed it advisable to retrench unless there was a different trend in business otherwise. As to a decision as to the three to be eliminated, to the number to be eliminated, and as to who they were, that was not made until the latter part of the negotiations. I had before me three possible courses of action.

One, of course, is the course taken by the San Francisco papers, each of which laid off from 10 to 30 employees during the course of negotiations.

Another course of other papers was that of waiting until their contracts were completed and then making their lay-off.

And the third course, that which we probably unfortunately decided upon, of completing our negotiations and then before signing, notified. [514]

(Testimony of Judge Harlan G. Palmer.)

Redirect Examination

Q. Yesterday Mr. McWilliams asked you for some figures or whether you had any figures with regard to the Citizen-News. Have you been able in the short time since we were here yesterday to get any figures on the Citizen-News?

A. Yes. The Citizen-News lineage in March, 1938 was 15.5 per cent below March of 1937. The Citizen-News lineage in April, 1938 was 12.5 per cent below the lineage of April, 1937. [593]

Q. And I believe you testified that it was about this period that you had determined to enter upon your retrenchment program? A. Yes, sir.

Q. Mr. McWilliams asked you yesterday whether you had any figures showing either the profit or the loss of the Citizen-News during the same period. Have you those figures available?

A. Yes. I have my record sheet.

Q. What does your record sheet show?

A. In January, 1937, the profit on the Daily Citizen-News was \$2450. In 1938 there was a loss of \$1251. In February of 1937 there was a profit of \$3114. In February, 1938 there was a profit of \$849.99. In March, 1937 there was a profit of \$6974, and in March 1938 there was a loss of \$1437.

In April 1937 there was a profit of \$8954.

In April of 1938 there was a profit of \$941.

Q. I think, Mr. McWilliams asked you yesterday with regard to the profit or loss through the

(Testimony of Judge Harlan G. Palmer.)

month of May, that is up to June 1, have you the figures for May? A. Yes.

Q. Please give them.

A. Through the month of May, of 1938, five months, the total figures on profit and losses were \$1814 loss. To the first five months of 1937 a profit and loss figure showed a total of [594] \$27,000 profit. The particular month of May, as separate and apart from the others, was May, 1937. There was a profit of \$5577. May, 1938, a loss of \$917.

Q. Now, as these figures are prepared by your accountant are they brought to you from time to time? A. Yes.

Q. How long after these figures are prepared and compiled do they get to you?

A. From the 10th to the 15th of the month following the month from which they were prepared.

Q. Was your retrenchment program entered upon after considering the monthly reports which were brought to you? A. Yes.

Q. You were also questioned yesterday, I believe, by Mr. McWilliams about the comparative months of December, 1937. Will you please give the figures for 1937 and the preceding year of 1936?

A. In December, 1936, there was a profit of \$4465. In December, 1937 there was a loss of \$3645.

Q. So that your estimate of \$3,000 loss as given on the stand yesterday. It was a conservative figure?

(Testimony of Judge Harlan G. Palmer.)

A. Yes, that was the figure I had in mind without the exact amount.

Trial Examiner Kennedy: An approximation?

The Witness: Yes. [595]

Q. (By Mr. Sargent) Yesterday in answer to Mr. McWilliams' questions, did you prepare any further data since yesterday afternoon?

A. Yes, on the item of dollars and cents revenue. I made compilations of the total display revenue of the combined Citizen-News and Hollywood Advertiser.

Q. What do those figures show? What are the figures?

Trial Examiner Kennedy: For what period?

The Witness: The period began December, 1937 and covered January, February, March, and April of 1938.

Trial Examiner Kennedy: That is four months of '38 and December of '37?

Mr. Sargent: Please give those figures.

A. The revenues for December in 1937 were \$39,865 as against \$43,140 for December, 1936.

The revenues for January, 1938 were \$34,821 as against the revenues for January, 1937, of \$39,083.

The revenues of February, 1938 were \$35,742 as against the revenues of February, 1937 of \$38,634.

The revenues of March, 1938 were \$40,689 as against the revenues of March, 1937 of \$45,384.

The revenues of April, 1938 were \$38,909 as against the revenues of April, 1937, of \$46,020.

(Testimony of Judge Harlan G. Palmer.)

Those are the gross revenues, and I made a totalization of the revenues of the first four months of 1938 as being [596] \$150,163 and the revenues of the first four months of 1937 as being a total of \$169,123.

I'm leaving off the cents in all instances. [597]

JAMES CROW,

a witness recalled by and on behalf of the National Labor Relations Board, being first duly sworn, was examined, and further testified as follows:

Examination by Trial Examiner:

Q. (By Trial Examiner Kennedy) The reason you are being recalled, Mr. Crow, is that the Examiner feels clarification is needed on certain parts of your testimony.

Do you recollect testifying in making a general statement that during the period of negotiations certain employees were in your opinion put on the spot? A. I recollect that.

Q. What employees had you in mind?

A. I had in mind Stanley Speer, Al Swan, Selby Calkins.

Q. That's Jake?

A. Yes, Patricia Killeran and Helen Blair Thurlby, and the women of the staff.

Q. Now, as to Mr. Speer, what position did he hold?

(Testimony of James Crow.)

A. He is referred to ordinarily as an office boy. He handles the printing room work and he does, or did, rather, writing for the sports department.

Q. In what way did negotiations effect Mr. Speer's position? [616]

A. By the reference made during the negotiations to sports work done by Speer, and by the statement from the management that in one case this sports writing done by Speer was something that should be dispensed with, and by referring to it as fun rather than as a legitimate part of the work done in the editorial department.

The sports department work was that part of his work in which Speer took pride, and we had shown through representing copies of the paper that he had done a great deal. Sometimes he had had a banner story on the main sports page, and sometimes he had had the banner story on the main sports page also, and the banner story on the secondary sports page. We had shown that his work at the prep schools in the keeping of records of various athletes had been a matter of interest to the readers of the paper.

Q. Was there any direct remark to the effect that his services might be dispensed with at any time?

A. I recall no direct remark, at least while I was present at the negotiations.

(Testimony of James Crow.)

Q. I believe the next name mentioned was Al Swan?

A. Yes, sir.

Q. What position did he occupy?

A. I don't know of the title given by us to Al Swan, other than reporter. During the negotiations, as I recall, he was referred to as a librarian. That is to say, he kept the [617] files of photographs, cuts in the library, or "morgue".

Q. Will you explain, Mr. Crow, in what way the negotiations affected Mr. Swan?

A. The management stated that this peculiar need of a person who was a composite of a librarian and reporter, that his position was not one for which the management could reasonably pay a reporter's salary.

In discussing the classifications which the management had one time proposed for the contract, the matter of Al Swan was brought up, and it was indicated that unless the classification was made in the contract the position of composite librarian-reporter would have to be abandoned.

The force of that in the negotiations, I know, were such that Al Swan concluded that if anyone was to be discharged he was to be the one.

Mr. Examiner, I understand you want me to talk about the negotiations meetings themselves, and not about what might have been said outside of the meetings?

Q. Was anything said by the management outside of the meetings?

(Testimony of James Crow.)

A. Already introduced in evidence, I believe, was at least one note which was handed to me by Al Swan and the testimony that Al Swan made, as I understand, concerning remarks made to him by Mr. Swisher was related before this hearing by Al Swan to me. [618]

Mr. Swisher spoke directly to me about Al Swan during the course of the negotiations. At one time he said that the negotiations were presenting the management with a very difficult problem in the matter of Al Swan, because Mr. Swisher said that I knew as well as he did that Al Swan would never make a reporter—I did not, by the way, conclude on that statement—“and if this contract goes through the way you fellows want it, the only thing we can do is give him his severance pay and let him go.”

I believe that I repeated at least part of that conversation to Al Swan on the grounds that I didn't think it was fair to keep him in the dark about such matters.

Al Swan has told me either orally or by means of notes written to me in the City Room that Mr. Swisher made——

Mr. Sargent: (Interrupting) This is objectionable.

Trial Examiner Kennedy: Yes. It is objectionable.

Q. (By Trial Examiner Kennedy) Jake Calkins.

(Testimony of James Crow.)

A. The statements made with reference to the work done by Jake Calkins, at least to the police reporting done by Jake Calkins, was that the management had often thought it might abandon the police work, and utilize city news service for the service there. That was made at the negotiations meeting.

Q. Those remarks were first made after the negotiations had commenced?

A. Yes. May I say that in my own experiences, as a police [619] reporter, which covered a period, I believe, of almost two years, that some years prior to this date no such idea had ever been presented to me. [620]

Cross Examination,

Q. (By Mr. Sargent): When the management had no specific objections to the proposals of the contract, even though it affected an individual employee, the negotiations were the only time and place the management could voice that objection, isn't it true?

A. I would have to say that that negotiation was an appropriate time and place. [629]

Q. As a matter of fact, in the final draft the office boy was permitted to do other things other than office boy work, was he not?

A. As I said before, I'm not familiar with the final draft, but I will say that I understand that

(Testimony of James Crow.)

the problem relating to Stanley Speer had been satisfactorily resolved.

Q. And, as a matter of fact, I wonder if you recall that the payment for the office boy was \$20 a week, and whether you know Mr. Swan was getting more than \$20 a week?

Do you know that?

A. As I recall, Sranley was getting about \$25 a week.

Q. Now with regard to Mr. Swan, in general the same situation was true with him because he acted both as reporter and librarian, isn't that true?

A. It's true that he did the work in the library and that he was a reporter.

Q. And wasn't that also discussed just the way the situation with regard to Stanley Speer had been brought to the management in discussing the Guild's proposal that he would always [630] be paid at the rate of the top work he was doing?

A. I believe it was discussed from that viewpoint.

Q. And ask you whether or not with regard to Mr. Calkins, whether the Guild didn't finally depart from the position that a reporter couldn't do photographic work?

A. I do not recall anything final in connection with these negotiations in the way of an agreement. I do not know of any disposition made of

(Testimony of James Crow.)

the problem of combination photographer and reporter made with regard to Mr. Calkins.

Q. Don't you know that the final clause didn't have the clause in it prohibiting reporters doing photographic work?

A. I assume that is the case.

Q. And I wonder if you also know that the Daily News or Evening News in Pasadena and in Glendale, other papers have police work done by the City News Bureau, did you know that?

A. I am aware of it in a general way. I couldn't specify any particular paper.

Q. And that situation has changed, has it not, since you were doing police work for the Respondent?

A. I don't know.

Q. When you said that the women were put on the spot, you referred, did you not, to the conversation to which you have already testified in the negotiations during which the question of whether women were or should receive equal top minimum pay with men was discussed? Is that true? [631]

A. Yes. [632]

Mr. Sargent: Now then, with regard to the second motion, and here again I would like to include the motion that your Honor recommend the dismissal, if that be the only power which your Honor has in the matter, I move that the complaint

be dismissed for the reason that the evidence brought forth does not sustain the allegations of the complaint, and in that connection I desire to call your Honor's attention to a few facts in support of that motion.

First, the complaint charges that there were no negotiations such as is contemplated by the Wagner Act, and that whatever discussions took place were not negotiations under the Act.

In that connection I desire to call to your Honor's attention the record of testimony introduced by both the Board and Respondent, and I believe in some part by the Guild itself, and to also refer you to the complete list of documents and papers known as Board's Exhibit 4 which are now in evidence, and to also call to your Honor's attention that it is undisputed in the evidence that an agreement was reached between the Guild and the Respondent and that that agreement was carried out, until the strike, by the Respondent, first through the posting of schedules for the 40-hour, 5-day week, and second by the payment of severance pay and vacation pay in the amounts called for by the agreement when the employees in question were dismissed.

[634]

The complaint also charges that there were discriminatory dismissals by the Respondent, and in answer to that I call to your Honor's attention the record brought in largely as a result of the questions by Mr. McWilliams, attorney for the Los An-

geles Guild, with regard to the questions arising out of the figures as decreased lineage concerning which there had been testimony as part of the Respondent's case. And also to call to your attention the other testimony, particularly of Judge Palmer, with regard to that and the testimony that there had been statements shown to testimony that referred to the evidence throughout that there might be dismissals as a result of retrenchment.

I also call to your Honor's attention the reasons given in detail by Judge Palmer for each dismissal, and the facts underlying the reasons for it, the reason why the particular employee was chosen for the group with which he was working in particular contact with the newspaper.

I also call to your attention in the agreement reached as a result of the negotiations there was a clear and admitted clause permitting to the publisher the right to dismiss.

Also may I call to your attention that the clause with regard to dismissals was one of the clauses particularly negotiated during the negotiations, and this clause, and that the clause which originally contained in the Guild's pro- [635] posal prohibiting the right of the publisher to dismiss, was negotiated out of the negotiations and that the final agreement as reached contained no clause impairing the right of the publisher to make such dismissals as he saw fit.

I also call to your attention the fact that the manner of dismissals was made in the manner pur-

suant to the terms of the contract and that the severance pay and vacations which were awarded to the individual employees were those called for by the terms of the agreement as negotiated and agreed to between the Guild and the Newspaper.

I take it, your Honor, that the case is entirely closed and that anything I may say here will not reopen the case in question for further evidence. Am I correct in my understanding of that?

Trial Examiner Kennedy: That's correct.

Mr. Sargent: I want to call your Honor's attention to the fact that the person who was the chief negotiator for the Guild was not called as a witness in this case, and the testimony shows that it was Mr. Garrigues who made many of the remarks in behalf of the negotiators for the Guild, and that he, more than any other individual, conducted the negotiations for them, and that he played a very important part in the final meeting at which the agreement was reached, and particularly that he was the person, according to the evidence, who gave the reaction of the Guild following the announcement [636] regarding dismissals under the agreement reached.

I call also to your Honor's attention the action taken by the Guild negotiators on the final day of the negotiations after the negotiations had closed in agreement with regard to the announcement by the management as to the dismissals, and particularly I call to your attention in that regard testi-

mony of Miss Daniel and the fact that here again Mr. Garrigues was not called either to dispute or otherwise to enlarge upon what had already been testified to both by Miss Daniel and Judge Palmer in that connection.

I also call to your Honor's attention the testimony shows that Doctor Nylander, this is without dispute, recognized the right at the meeting on Monday, May 16th, on the part of the publisher to dismiss and as the testimony shows that there was no question raised as to that right, and I believe your Honor already knows that the case as stated there is no limitation upon the right of the publisher to dismiss or the employer to dismiss, providing, of course, there is not a discrimination, and if the dismissal is not for union membership or union activities, which, of course, is prohibited by law.

And finally, I call to your Honor's attention that on the question of discrimination, the records show without exception and contradiction that all of the members of the Editorial Staff of the Hollywood Citizen were Guild members. [637] They were known to be such by the management, and that this was clearly recognized during the negotiations and up to and including the time of the agreement.

For these and other reasons, which I might take further time of the Court, but which I believe cover the essential points, I make this motion either that your Honor dismiss the complaint or if it be his

province only to recommend, that he recommend the dismissal of the complaint on the ground that the reasons I have given and for others that appear in the record, the Board has not sustained the burden of proving its case and the facts brought forth do not sustain the cause of action under the Wagner Act against the Hollywood Citizen-News, and for this reason the action should be dismissed and the complaint.

Mr. Persinger: The Board has no arguments unless the Examiner wants one. I don't usually argue these cases.

Mr. McWilliams: On behalf of the Guild, I don't want to argue, and I don't want to add anything more. The record speaks for itself.

Trial Examiner Kennedy: I believe the Trial Examiner has the authority to rule on motions to dismiss. However, the motion to dismiss at that time is overruled.

Mr. Sargent: I may have an exception, of course, your Honor?

Trial Examiner Kennedy: Surely. [638]

In the United States Circuit Court of Appeals
for the Ninth Circuit

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

vs.

THE CITIZEN-NEWS COMPANY,
a Corporation,

Respondent.

CERTIFICATE OF THE NATIONAL LABOR
RELATIONS BOARD

The National Labor Relations Board, by its Executive Secretary, duly authorized by the National Labor Relations Board, hereby certifies that the documents annexed hereto constitute a full and accurate transcript of the entire record in a proceeding had before said Board entitled, "In the Matter of The Citizen-News Company, a corporation and Los Angeles Newspaper Guild," the same being Case No. C-947 before said Board, such transcript including the pleadings, testimony and evidence upon which the order of the Board in said proceeding was entered, and including also the findings and order of the Board.

Fully enumerated, said documents attached hereto are as follows:

1. Charge filed by Los Angeles Newspaper Guild, sworn to May 16, 1938.

2. Amended charge filed by Los Angeles Newspaper Guild, sworn to June 24, 1938.

3. Complaint and notice of hearing issued by the National Labor Relations Board, June 27, 1938.

4. Respondent's answer to the complaint, sworn to July 1, 1938.

5. Certified copy of order designating George E. Kennedy, Trial Examiner for the National Labor Relations Board, dated July 5, 1938.

6. Stenographic transcript of testimony before V. P. Lucas, Trial Examiner for the National Labor Relations Board, on March 7, 8, 9, 10, 11, and 28, 1938 together with all exhibits introduced in evidence in a proceeding before said Board entitled "In the Matter of Citizen-News Company, a corporation and Los Angeles Typographical Union, Local No. 174," the same being Case No. C-606 before said Board.

Documents listed hereinabove under items 1-5, inclusive, are contained in the exhibitis and included under the following item:

7. Stenographic transcript of testimony before George E. Kennedy, Trial Examiner for the National Labor Relations Board, on July 5, 6, 7, 8, 11, and 12, 1938, together with all exhibits introduced in evidence.

8. Copy of Intermediate Report of Trial Examiner Kennedy, dated September 1, 1938.

9. Copy of union's exceptions to Intermediate Report.

10. Copy of respondent's letter, dated October 3, 1938, requesting oral argument.

11. Copy of respondent's exceptions to Intermediate Report.

12. Copy of notice of hearing for purpose of oral argument, dated September 14, 1939.

13. Copy of respondent's letter, dated September 16, 1939, advising of intention not to appear at oral argument.

14. Copy of list of appearances at oral argument held October 5, 1939.

15. Copy of union's letter, dated October 9, 1939, requesting extension of time to file motion to reopen record.

16. Copy of letter, dated October 11, 1939, granting extension of time to file motion to reopen record.

17. Copy of union's letter, dated November 13, 1939, advising of intention not to file motion to reopen record.

18. Copy of decision, findings of fact, conclusions of law and order issued by the National Labor Relations Board, March 26, 1940, together with affidavit of service and United States Post Office return receipts thereof.

In Testimony Whereof the Executive Secretary of the National Labor Relations Board, being thereunto duly authorized as aforesaid, has hereunto set her hand and affixed the seal of the National Labor Relations Board in the city of Washington, District of Columbia, this 5th day of December, 1941.

(Seal) BEATRICE M. STERN,

Executive Secretary
NATIONAL LABOR RELATIONS
BOARD

[Endorsed]: No. 9994. United States Circuit Court of Appeals for the Ninth Circuit. National Labor Relations Board, Petitioner, vs. The Citizen-News Company, a corporation, Respondent. Transcript of Record. Upon Petition for Enforcement of an Order of the National Labor Relations Board.

Filed December 9, 1941.

PAUL P. O'BRIEN,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

In the United States Circuit Court of Appeals
for the Ninth Circuit

No. 9994

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

v.

THE CITIZEN-NEWS COMPANY,
a Corporation,

Respondent.

STATEMENT OF POINTS ON WHICH PETI-
TIONER INTENDS TO RELY

Comes now the National Labor Relations Board, petitioner in the above proceeding, and, in conformity with the revised rules of this Court heretofore adopted, hereby states the following points

as those on which it intends to rely in this proceeding:

1. Upon the undisputed facts, the Act is applicable to respondent and to the employees herein involved.

2. The Board's findings of fact are fully supported by substantial evidence. Upon the facts so found, respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (1) and (2) of the Act.

3. The Board's Order is wholly valid and proper under the Act.

Dated at Washington, D. C., this 20th day of December, 1941.

NATIONAL LABOR RELATIONS
BOARD

By ERNEST A. GROSS,

Acting Associate General Counsel.

[Endorsed]: Filed Dec. 22, 1941. Paul P. O'Brien, Clerk.

United States
Circuit Court of Appeals
For the Ninth Circuit. ²

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

vs.

THE CITIZEN-NEWS COMPANY,
Respondent.

Transcript of Record

In Two Volumes

VOLUME I

Pages 1 to 338

Upon Petition for Enforcement of an Order of
the National Labor Relations Board

FILED

MAR 25 1942

PAUL P. O'BRIEN,

CLERK

United States
Circuit Court of Appeals
For the Ninth Circuit.

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

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THE CITIZEN-NEWS COMPANY,
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**Upon Petition for Enforcement of an Order of
the National Labor Relations Board**

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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BOARD EXHIBIT 1-D

United States of America
Before the National Labor Relations Board
Twenty-first Region
Case No. XXI-C-1394

In the Matter of
THE CITIZEN-NEWS COMPANY
and
LOS ANGELES NEWSPAPER GUILD

COMPLAINT

It having been charged by the Los Angeles Newspaper Guild, hereinafter referred to as the "Union", that The Citizen-News Company, hereinafter referred to as the "Respondent", has engaged in and is now engaging in certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, 49 Stat. 449, the National Labor Relations Board by the Regional Director for the Twenty-first Region, as agent of the National Labor Relations Board, designated by National Labor Relations Board Rules and Regulations, Series 2, as amended, Article IV, Section 1, hereby issues its complaint and alleges the following:

1. Respondent is and at all times hereinafter mentioned has been, a corporation organized and existing under and by virtue of the laws of the State of California, having its principal office and

place of business in Hollywood, California. Respondent, in the course and conduct of said business, prints and publishes a newspaper known as the "Hollywood Citizen-News" and an advertising paper known as the "Hollywood Advertiser," and in addition, engages in job printing for commercial establishments and other newspapers and publications.

2. Respondent, in the course and conduct of its business aforesaid, uses the wire reports of Associated Press and United Press, both of which maintain teletype machines at Respondent's plant; the Associated Press having the privilege of using items of news and intelligence collected and edited by Respondent's employees and in turn transmitted to points outside of the State of California. The items of news collected outside of the State of California by the Associated Press and United Press, and transmitted to Respondent, comprise approximately 21% of the reading matter of the Hollywood Citizen-News. Respondent subscribes to numerous syndicated services which supply materials originating outside the State of California amounting to approximately 17% of the reading matter of the Hollywood Citizen-News. The revenue derived from advertising originating outside of the State of California and appearing in the columns of the Hollywood Citizen-News, amounts to approximately 10% of the total advertising revenue of said newspaper and more than 5% of Respondent's total revenue. Respondent's Hollywood Citizen-News

sells and distributes in excess of twenty-six thousand (26,000) copies daily throughout the State of California, and approximately .5% of the total papers published daily by said Hollywood Citizen-News is shipped outside of the State of California to other states of the United States.

3. Respondent, in the course and conduct of its business aforesaid, causes and has continuously caused large quantities of material, consisting of newsprint, mats, and ink, to be purchased and transported in interstate and foreign commerce and through the states of the United States other than the State of California, to Respondent's plant at Hollywood, California. Respondent uses approximately three hundred and fifty tons of newsprint each month, all of which is shipped to Respondent's plant from British Columbia, Canada. The purchase of said newsprint constitutes 20% of the total expenses of all of Respondent's publications.

4. Los Angeles Newspaper Guild, otherwise known as Local No. 69 of the American Newspaper Guild, affiliated with the Congress of Industrial Organizations, is a labor organization within the meaning of Section 2, subsection (5) of the National Labor Relations Act.

5. Respondent, through its officers, agents and employees, prior to and since on or about the first day of September 1936, has interfered with the self-organization of its employees and with their freedom of choice of representatives for collective bar-

gaining, certain of which conduct has been and is adjudicated by the Board in Case No. C-606 (In the Matter of Citizen-News Company, a Corporation, and Los Angeles Typographical Union, Local No. 174) decided September 1, 1938, and Case No. C-947 (In the Matter of The Citizen-News Company, a corporation and Los Angeles Newspaper Guild) decided March 26, 1940, in which Respondent was ordered to take such action as the Board found would effectuate the policies of the Act. Respondent has complied with neither of said orders.

That despite the fact that Respondent was so ordered to cease and desist from certain conduct as reflected by the orders above referred to, it has continued its plan of interference with the self-organization of its employees and with their freedom of choice of representatives for collective bargaining, such plan consisting of the following acts committed continuously on occasions since on or about July 30, 1938:

(a) By making known to said employees, Respondent's disapproval of and hostility to the Los Angeles Newspaper Guild;

(b) By making known to said employees Respondent's opposition to membership in or assistance to the Los Angeles Newspaper Guild or any other local of the American Newspaper Guild;

(c) By making speeches and distributing propaganda calculated and intended to interfere with the freedom of choice of representatives for collective bargaining by Respondent's employees;

(d) By making speeches and distributing propaganda calculated and intended to force the Respondent's employees to withdraw from the Los Angeles Newspaper Guild; ✓

(e) By spreading rumors that Respondent's employees would lose their employment for joining said Los Angeles Newspaper Guild; ✓

(f) By making from time to time, derogatory statements in disparagement of the Los Angeles Newspaper Guild, its leaders and members; ✓

(g) By disparaging the work of Respondent's employees who were members of the Los Angeles Newspaper Guild, solely because of their Guild activity; ✓

(h) By imposing onerous conditions of work upon Respondent's employees who were members of the Los Angeles Newspaper Guild, solely because they were members of said Guild; ✓

(i) By harassing Respondent's employees who were members of the Los Angeles Newspaper Guild, solely because they were members of said Guild;

By forcing said members to assume menial and undignified tasks for which they were wholly unaccustomed and untrained by reason of their professional qualifications and by reason of the tasks assigned to them while employed by Respondent prior to their joining said Guild;

(j) By refusing to adjust grievances with the Los Angeles Newspaper Guild as a representative of Respondent's employees;

and by these and other acts, Respondent did interfere with, restrain, and coerce its employees in the exercise of the rights guaranteed in Section 7 of the Act, and thereby did engage in and is engaging in unfair labor practices within the meaning of Section 8, subsection (1) of the Act.

6. On or about March 30, 1940, Respondent discharged Karl Schlichter and Leonard Lugoff because said employees joined and assisted the Union and engaged in concerted activities with other employees for their mutual aid and protection; and Respondent refuses and continuously has refused to reinstate said Karl Schlichter and Leonard Lugoff for the reason that they joined and assisted the Union and engaged in concerted activities with other employees for their mutual aid and protection.

7. By its activities described in Paragraph 6 above, and by other acts, Respondent did discriminate in regard to hire and tenure of employment of its employees and did discourage and is discouraging membership in said Union, and thereby did engage in and is engaging in unfair labor practices within the meaning of Section 8, subsection (3) of said Act.

8. By its activities described in paragraphs 6 and 7 hereof, and by other acts, Respondent interfered with, restrained, and coerced its employees in the exercise of rights guaranteed in Section 7 of the Act and thereby did engage in and is engaging in unfair labor practices within the meaning of Section 8, subsection (1) of said Act.

9. The acts of Respondent set forth in paragraphs 5, 6, 7, and 8, of this complaint, occurring in connection with the operations of Respondent described in paragraphs 1, 2, and 3, of this complaint, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several states, and have led, and now lead, to labor disputes burdening and obstructing commerce and the free flow of commerce.

The acts of Respondent set forth in paragraphs 5, 6, 7, and 8, of this complaint constitute unfair labor practices affecting commerce within the meaning of Section 8, subsections (1) and (3) and Section 2, subsections (6) and (7) of the National Labor Relations Act.

Wherefore, the National Labor Relations Board, on the 11th day of October, 1940, issues its complaint against The Citizen-News Company, Respondent herein.

NOTICE OF HEARING

Please take notice that on the 12th day of November, 1940, in Room 808, U. S. Post Office and Courthouse Bldg., Los Angeles, California, at 10:00 o'clock in the forenoon, a hearing will be conducted before the National Labor Relations Board, by a Trial Examiner to be designated by it in accordance with its Rules and Regulations, Series 2, as amended, Article IV and Article II, Section 23, on the allegations set forth in the complaint hereinabove set forth, at which time and place you will

have the right to appear in person or otherwise, and give testimony.

You are further notified that you have the right to file with the Regional Director for the Twenty-first (21st) Region, acting in this matter as the agent of the National Labor Relations Board, an answer to the foregoing complaint, on or before the 12th day of November, 1940.

Enclosed herewith for your information is a copy of the Rules and Regulations, made and published by the National Labor Relations Board, pursuant to authority granted in the National Labor Relations Act. Your attention is particularly directed to Article II of said Rules and Regulations.

In witness whereof, the National Labor Relations Board has caused this, its complaint and its notice of hearing, to be signed by the Regional Director for the Twenty-first (21st) Region on the 11th day of October, 1940.

(Seal)

WALTER P. SPRECKELS

Director

21st Region,

National Labor Relations Board

808 U. S. Post Office & Courthouse Bldg.

Los Angeles, California

BOARD'S EXHIBIT 1-H

[Title of Board and Cause.]

ANSWER

Comes now Respondent, The Citizen-News Co., a corporation, and answering the Complaint on file herein, admits, denies and alleges as follows:

1. Answering Paragraph 1 of the Complaint, Respondent admits the allegations of the same.

2. Answering Paragraph 2 of the Complaint, Respondent admits the allegations contained therein for the purpose of this proceeding, but denies either that news or intelligence collected and edited by Respondent's employees is transmitted from Respondent's plant to points outside the State of California, or that news or intelligence collected outside of the State of California by the Associated Press or United Press is transmitted from outside the State of California to Respondent's plant, and alleges that such news and intelligence obtained from the Associated Press and United Press is received by Respondent from their offices within the State of California.

3. Answering Paragraph 3 of the Complaint, Respondent admits the allegations contained therein, except that Respondent denies that all of the newsprint is shipped to Respondent's plant from British Columbia, Canada.

4. Answering Paragraph 4 of the Complaint, Respondent admits the Los Angeles Newspaper Guild is a labor organization as defined in Section

2, Subdivision (5) of the National Labor Relations Act.

5. Answering Paragraph 5 of the Complaint, Respondent specifically denies each and every allegation contained therein, except that it admits that the Board did render two decisions in cases No. C-606 and C-947, the validity of which Respondent denies as to those portions of the decisions relating to the matters complained of by the Board in its Complaint in this proceeding. Respondent further alleges that the Board has in neither of these cases sought to enforce either of the said decisions by appropriate action in the Courts.

Respondent further specifically denies that through its officers, agents and employees, or otherwise, either prior to or since the first day of September, 1936, or at any time, interfered with the self-organization of its employees, or with their freedom of choice of representatives for collective bargaining, or otherwise.

Respondent further specifically denies that it either had, or has, a plan of interference, or has continued any plan of interference, with the self-organization of its employees, or with their freedom of choice of representatives for collective bargaining. Respondent further specifically denies that it had pursued, or is pursuing any plan consisting of the acts alleged in the Complaint, either before or after July 30th, 1938, and further specifically denies that either before or since July 30th, 1938, it had any plan to do, or has done, any of the acts so alleged or as referred to as follows:

(a) Respondent denies that it has made known to its employees Respondent's disapproval of or hostility to the Los Angeles Newspaper Guild, or whether it had any disapproval of or hostility to the said Los Angeles Newspaper Guild;

(b) Respondent denies that it has made known to its employees Respondent's opposition to membership in, or assistance to the Los Angeles Newspaper Guild, or any other local of the American Newspaper Guild, or whether it had any opposition to membership in, or assistance to either the Los Angeles Newspaper Guild or to any local of the American Newspaper Guild;

(c) Respondent denies that it has made speeches or distributed propaganda calculated or intended to interfere with the freedom of choice of representatives for collective bargaining by its employees, or that it has in any other respect attempted to interfere with such freedom of choice;

(d) Respondent further denies that it has made speeches or distributed propaganda calculated or intended to force the Respondent's employees to withdraw from the Los Angeles Newspaper Guild, or that it has in any other manner attempted to force such a withdrawal;

(e) Respondent denies that it has spread rumors that Respondent's employees would lose their employment for joining said Los Angeles Newspaper Guild, or that it has done any other thing which might be so construed;

(f) Respondent denies that it has made from time to time to its employees derogatory statements in disparagement of the Los Angeles Newspaper Guild, its leaders or members, and on the contrary has attempted to see that no such statements were made to its employees;

(g) Respondent denies that it has disparaged the work of those of Respondent's employees who were, or are, members of the Los Angeles Newspaper Guild, either solely because of, or in any manner because of their Guild activity;

(h) Respondent denies that it has imposed onerous conditions of work upon those of Respondent's employees who were, or are, members of the Los Angeles Newspaper Guild, either solely because of, or in any manner because of their membership in the Guild;

(i) Respondent denies that it has harassed its employees who were, or are, members of the Los Angeles Newspaper Guild, either solely because of, or in any manner because they were, or are, members of said Guild; either by forcing said members to assume menial or undignified tasks for which they were wholly unaccustomed or untrained by reason of their professional qualifications, or by reason of the tasks assigned to them while employed by Respondent prior to their having joined said Guild, or otherwise;

(j) Respondent denies that it has refused to adjust grievances with the Los Angeles Newspaper Guild as a representative of Respondent's em-

ployees, and Respondent further denies that it has, by any act or acts, interfered with, restrained or coerced its employees, or any of them, in the exercise of the rights, or any right, guaranteed in Section 7 of the Act, or that it has engaged in, or is engaging in, any unfair labor practice within the meaning of Section 8, Subsection (1) of the Act.

6. Answering Paragraph 6 of the Complaint, Respondent specifically denies each and every allegation contained therein, except that Respondent admits that it did discharge Karl Schlichter and Leonard Lugoff, but not for the reasons alleged in the Complaint, and Respondent specifically denies that it discharged Karl Schlichter or Leonard Lugoff because said employees joined and assisted the union, or engaged in concerted activities with other employees for their mutual aid and protection. Respondent further specifically denies that it has refused, either at any time or continuously, to reinstate the said Karl Schlichter and Leonard Lugoff for the reason that they joined and assisted the union or engaged in concerted activities with other employees for their mutual aid and protection.

Respondent further alleges that pursuant to the terms of a Strike Settlement Agreement, entered into between Respondent and the Los Angeles Newspaper Guild, under date of July 30th, 1938, a copy of which is set forth and annexed hereto as Exhibit "A" and made a part hereof, the said Karl Schlichter failed to resign, as provided in said Agreement, and was discharged by Respondent in

accordance with said Agreement, and not for any of the reasons alleged in the Complaint. Respondent further alleges that with regard to Leonard Lugoff, he was originally discharged in August, 1938, because of unsatisfactory work and that such discharge came shortly after the reinstatement of certain employees who as Guild members were reinstated under the Strike Settlement Agreement; that upon his original discharge, the said Leonard Lugoff appealed to Respondent with the plea that as one of those who was not a member of the Guild at the time of the said strike and had not gone out on strike, he should be treated at least as well as those who were Guild members and had gone out on strike and had been reinstated under the Strike Settlement Agreement, and that since various of the striking Guild employees had been taken back when their services were not needed by Respondent, he believed that he should be reinstated because he was earning at least a part of the compensation which had been paid to him; that Respondent, as the result of this plea by the said Leonard Lugoff, did reinstate him on the same ground as the other employees who were reinstated pursuant to the Strike Settlement Agreement; that after the decision of the Board in the case referred to above, brought by the Los Angeles Newspaper Guild, which decision held that the discharges had not been discriminatory or unfair labor practices, Karl Schlichter and Elizabeth Yeaman were discharged pursuant to said Strike Settlement Agreement, following the resig-

nations of Roger Johnson, Mel Scott and Helen Blair; that thereafter Leonard Lugoff was discharged pursuant to the agreement under which he had been reinstated, and that an additional reason for his second discharge was that his services continued to be unsatisfactory to Respondent during the period of his reinstatement.

7. Answering Paragraph 7 of the Complaint, Respondent specifically denies each and every allegation contained therein, and Respondent specifically denies that by any act or acts did it discriminate in regard to the hire or tenure of employment of any of its employees, or did discourage, or is discouraging, membership in said union, or did engage in, or is engaging in, unfair labor practices within the meaning of Section 7, Subsection (3) of said Act.

8. Answering Paragraph 8 of the Complaint, Respondent specifically denies each and every allegation contained therein, and Respondent specifically denies that it indulged in any of the activities alleged in Paragraph 6 or 7 of the Complaint, or that through any other act or acts it interfered with, restrained, or coerced its employees in the exercise of any right or rights guaranteed in Section 7 of the Act, or did engage in or is engaging in any unfair labor practice or practices within the meaning of Section 8, subsection (1) of said Act.

9. Answering Paragraph 9 of the Complaint, Respondent specifically denies each and every allegation contained therein, and Respondent specifically

denies that it performed the acts set forth in Paragraphs 5, 6, 7 and 8 of the Complaint, in any manner whatsoever, or that any acts by it in connection with the operations of Respondent, whether alleged in those paragraphs, or Paragraphs 1, 2 or 3, or elsewhere alleged in the Complaint, have a close, intimate or substantial relation to trade, traffic or commerce among the several states, or that any act or acts of Respondent have lead, or now lead, to labor disputes burdening or obstructing commerce or the free flow of commerce.

Respondent further specifically denies that any act or acts of Respondent, whether alleged in Paragraphs 5, 6, 7 or 8, or in any part of the Complaint, or otherwise, constitute unfair labor practices affecting commerce within the meaning of Section 8, Subdivisions (1) or (3) or Section 2, Subdivisions (6) or (7) of the National Labor Relations Act.

Wherefore: Respondent, The Citizen-News Co., a corporation, prays the Complaint on file herein be dismissed.

THE CITIZEN-NEWS CO.,
1545 North Wilcox Avenue
Hollywood, California

By HARLAN G. PALMER
President

WILLIS SARGENT
Attorney for Respondent

State of California,
County of Los Angeles—ss.

Harlan G. Palmer, being by me first duly sworn,
deposes and says:

That he is an officer, to-wit: the President of
The Citizen-News Co., the Respondent in the above
entitled action, and that he makes this verification
for and on behalf of said company; that he has read
the foregoing Answer and knows the contents there-
of; and that the same is true of his own knowledge,
except as to the matters which are therein stated
to be without the knowledge of Respondent, and as
to those matters that he believes it to be true.

HARLAN G. PALMER

Subscribed and sworn to before me this 9th day
of November, 1940.

(Seal)

EDITH CETTO

Notary Public in and for the County of Los Angeles,
State of California

EXHIBIT "A"

AGREEMENT

This Agreement, made and entered into at Los
Angeles, California, this 30th day of July, 1938, by
and between the Citizen-News Company, hereinafter
referred to as "the Publisher", and the Los Angeles
Newspaper Guild, a local chartered by the Ameri-
can Newspaper Guild,

Witnesseth:

That whereas, the Publisher and the Guild have previously entered into certain negotiations with respect to the execution of a Collective Bargaining Agreement pertaining to the editorial employees of the Publisher; and whereas certain differences have arisen between the Publisher and the Guild which resulted in a strike of certain employees of the Publisher; and whereas the Publisher and the Guild desire to settle said dispute; and whereas the Publisher and the Guild have this day executed a Collective Bargaining Agreement, as hereinabove set forth:

Now, therefore, in addition to the Collective Bargaining Agreement, it is mutually agreed as follows:

Section 1. The Guild agrees (1) to terminate the strike immediately; (2) to request all organizations with which it is affiliated and other organizations which, to its knowledge, have placed the publications of the Publisher or advertisers in said publications upon any "do not patronize or unfair" list because of the strike, to rescind this action; (3) upon request of the Publisher, to contact any advertiser who may have discontinued his advertising because of the strike and to request that such advertiser renew his advertising.

Section 2. The Publisher agrees to immediate restoration to the payroll of the eighteen strikers and the five discharged employees at rates of pay provided in the Collective Bargaining Agreement.

Section 3. It is agreed that the matter of back pay is to abide final determination of the matter now pending before the National Labor Relations Board, if on the merits and not on the question of the jurisdiction of the National Labor Relations Board, and to be paid by the Publisher only if ordered in such final determination and waived if no such order or a contrary order is made. By final determination is meant either the acceptance by both sides of the determination by the National Labor Relations Board or the final determination thereof by any court or courts to which any of the parties to said proceedings may take such matter.

Section 4. It is agreed that the final determination (defined as above) of the matter now pending before the National Labor Relations Board, if on the merits and not on the question of the jurisdiction of the National Labor Relations Board, is to be accepted by the Publisher and the Guild. In the event it is finally determined that the five discharged employees, or any of them, were lawfully discharged, those so affected by such determination shall promptly resign or be subject to discharge. If such resignations are accepted, or they, or any of them, are discharged, severance and earned vacation pay shall be paid by the Publisher.

Section 5. It is agreed that the final determination of the pending matter before the National Labor Relations Board shall be held equally binding upon the Publisher and the Guild in the case

of Helen Blair, with reference to whom the present pending matter was dismissed without prejudice.

Section 6. It is agreed that the Publisher will immediately dismiss that certain action pending in the Superior Court of the State of California, in and for the County of Los Angeles, entitled: The Citizen-News Company, a corporation, vs. P. M. Connelly et al, No. 429554, and that in connection with certain contempt citations which have been issued in said action, the Publisher will join with the Guild in recommending to the Court that said Orders to Show Cause in re Contempt be discharged and dismissed.

Section 7. It is agreed that the period of the strike shall not be considered a lapse of employment.

Section 8. It is agreed that the provisions of this agreement, except as otherwise provided by Section 4 herein, shall be applicable equally to the four reinstated non-editorial employees as well as to those editorial employees covered by the Collective Bargaining Agreement; that the four reinstated non-editorial employees shall be reinstated at rates of pay not less than those which they received immediately prior to the strike; that they shall be entitled, as well as editorial employees, except as otherwise provided by Section 4 herein, to the protection of that portion of Article II of the Collective Bargaining Agreement which provides that "there shall be no discharge of any of the strikers

for economy reasons prior to January 1, 1939"; that the four reinstated non-editorial employees are equally entitled with editorial employees to the protection of Section 7 of this Agreement, including vacations with pay.

Section 9. The right of the Guild to strike over any grievance arising subsequent to the date of this agreement shall not be impaired.

Section 10. The Publisher and the Guild, including the five discharged employees, accept this Agreement in good faith and agree to conform to and abide by the same, pending final determination of said matters as herein provided.

THE CITIZEN-NEWS COMPANY,
a corporation

By HARLAN G. PALMER

LOS ANGELES NEWSPAPER
GUILD, a Local of the American
Newspaper Guild

By PHILIP M. CONNELLY
Pres.

[Title of Board and Cause.]

INTERMEDIATE REPORT

Statement of the Case

After charges and upon amended charges duly filed¹ by the Los Angeles Newspaper Guild, herein called the Guild, the National Labor Relations Board, herein called the Board, by the Regional Director for the Twenty-First Region (Los Angeles, California), issued its complaint dated October 11, 1940 against The Citizen-News Company, Hollywood, California, herein called the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices affecting commerce, within the meaning of Section 8 (1) and (3) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. A copy of the complaint and notice of hearing thereon was duly served upon the respondent and the Guild.

In substance, the complaint alleged that the respondent (1) discriminatorily discharged and refused to reinstate Karl Schlieter and Leonard Lugoff, and thereby discouraged membership in a labor organization: (2) imposed onerous conditions of work upon Guild members, made disparaging statements concerning the Guild, and distributed propaganda calculated to interfere with the freedom of choice of representatives for collective bargaining

(1) Charges were filed April 24, 1940, and amended charges were dated September 27, 1940.

by its employees; (3) refused to adjust grievances with the Guild as the representative of its employees; and (4) by the foregoing acts interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act. In its answer dated November 9, 1940 the respondent denied that it had engaged in or was engaging in the alleged unfair labor practices.

Pursuant to notice duly served on the parties, a hearing was held at Los Angeles, California, on November 12, 13, 14, 15, 16, 18 and 19, 1940 before the undersigned, the Trial Examiner duly designated by the Chief Trial Examiner. At the hearing the Board and the respondent were represented by counsel and the Guild by an administrative officer. All parties participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. At the close of the hearing all parties were accorded, but waived, an opportunity to argue orally before the undersigned. The Guild submitted a brief which has been duly considered by the undersigned. Although counsel for the respondent requested, and was granted, an extension of time until December 21, 1940 for filing a brief, no brief was filed.

Upon the record made and from his observation of the witnesses, the undersigned makes, in addition to the above, the following findings of fact:

FINDINGS OF FACT

I. The Respondent and Its Business

The respondent is a California corporation, having its principal office and place of business in Hollywood, California. It owns and publishes the Hollywood Citizen-News, a daily newspaper, and the Hollywood Advertiser, a weekly free-circulation newspaper. The respondent also engages in commercial printing and operates a retail stationery store.

The respondent's Hollywood Citizen-News sells and distributes more than twenty-six thousand (26,000) copies daily throughout the State of California, and about .5 per cent of the total copies published are shipped daily outside the State of California to other states of the United States. Both the Associated Press and the United Press maintain teletype machines at the respondent's plant, and approximately 21 per cent of the reading matter in the Hollywood Citizen-News is comprised of news collected outside the State of California and transmitted by these news services to the respondent. The respondent also subscribes to numerous syndicated services which supply material, originating outside the State of California, amounting to approximately 17 per cent of the reading matter in the Hollywood Citizen-News. About 10 per cent of the total advertising revenue of the said newspaper and more than 5 per cent of the respondent's total revenue is derived from advertising originating outside the State of California and appearing in its columns.

The respondent uses about 350 tons of newsprint per month, all of which is shipped to it from points outside the State of California. The purchase of newsprint constitutes 20 per cent of the total expenses of all the respondent's publications.²

II. The Organization Involved

Los Angeles Newspaper Guild, Local 69 of the American Newspaper Guild, is a labor organization affiliated with the Congress of Industrial Organizations. The Guild admits to membership, among employees of the Hollywood Citizen-News, all employees in the editorial, display advertising, classified advertising, circulation and business administrative departments, with certain exceptions.³

III. The Unfair Labor Practices

A. Background

Certain issues in the instant case are directly traceable to issues decided by the Board on March 26, 1940, in Case No. C-947, wherein the same parties were involved. In that case the Board found

(2) Although the respondent denies that it is engaged in interstate commerce, the findings in Section I herein are based, in substance, upon admissions of the respondent in its answer or testimony given by the respondent's president.

(3) A Guild representative testified that the constitution excepted, as members, employees whose "interests lie with the management as against those of the employees."

that, although the respondent had engaged in unfair labor practices within the meaning of Section 8 (1) of the Act, it had not violated Section 8 (3) of the Act by discharging, on May 14 and 16, 1938, five Guild members, including Karl Schlichter.

At the time of the hearing in Case No. C-947 a strike was current at the respondent's plant. On July 30, 1938, subsequent to the hearing, the respondent and the Guild entered into a strike-settlement agreement which provided for the "immediate restoration to the pay roll" of the five discharged employees, upon the following terms:

"In the event it is finally determined that the five discharged employees, or any of them, were lawfully discharged, those so affected by such determination shall promptly resign or be subject to discharge."

"Final determination" was thus defined in the agreement:

". . . either the acceptance by both sides of the determination by the National Labor Relations Board or the final determination thereof by any court or courts to which any of the parties to said proceedings may take such matter."

B. Interference, Restraint and Coercion

The complaint alleges and the respondent's answer denies that the respondent (1) spread rumors and propaganda that its employees who were Guild members would lose their jobs; (2) imposed onerous conditions or work upon Guild members and forced

them to assume menial and undignified tasks for which they were wholly unaccustomed; and (3) refused to adjust grievances with the Guild as the representative of its employees.

In the Board's Decision and Order, Case No. C-947, the Board found that the respondent had engaged in conduct violating Section 8 (1) of the Act, and to effectuate the purposes of the Act ordered the respondent to post notices stating that it would cease and desist from such conduct. The respondent has not complied with this order. Palmer stated at the hearing in the instant proceedings, "We have no intention to do so until the Court orders us to do so." Nor has the respondent complied with the Board's order in Cases Nos. C-606 and R-712, decided September 1, 1938, in which the Board concluded that the respondent had violated Section 8 (1) and (2) of the Act.

Palmer's effort to discredit the Guild is implicit in the text of his editorial appearing in the August 1, 1938 issue of the *Citizen-News*, immediately after the return of the strikers. In part, the editorial reads as follows, with respect to the returned strikers:

"They once worked for a paper in whose family of employees they shared in the mutual regard that prevailed. They return to meet the bitterness of 225 employees who remained loyal to the paper, while they, other labor organizations, some Democratic organizations and the Communists sought to destroy the business that provides the jobs."

It has been found that by terms of the strike settlement in 1938, the respondent returned to its pay roll the 5 employees whom the Board later concluded had not been discriminatorily discharged. Reinstatement of these employees resulted in confusion, transfers and assignments to reportorial work not previously performed by them. It is unnecessary here to detail each change. No editorial salary was reduced. Roger Johnson, one of the 5 employees reinstated, testified that when the Guild protested these departmental changes, the grievance committee was told by Palmer that the company was "trying their best to fit the returned people into positions which in reality didn't exist and that because they had been required to take these people back it would naturally create some disturbance." It is clear that an unusual situation existed and the record contains insufficient evidence to support a finding that any assignment or transfer was for the purpose of discouraging membership in the Guild. Nor does the evidence support the allegation in the complaint that Guild members were assigned to tasks which were "onerous" or "menial".

Following the failure of Patricia Killoran to attend a cocktail press party to which she had been assigned by Young, sometime after the strike, she was reprimanded and told by the business manager, according to her undisputed testimony, that "his brother had been a very active union man, that he knew more about unions than I would ever know, and he knew about good unions, like the Brother-

hood, but that I was just not to be trusted, after the things we had done." Killoran's testimony is also undisputed that at a time when she was posting a notice on the Guild bulletin board, she was told by managing editor Swisher that "the Guild was not a reputable organization." Killoran's testimony is also undisputed that soon after her participation in the strike, Sternberg, classified advertising manager, told her, in substance, "what a fool I was, and what a monkey I made of myself, and how terrible the C.I.O. was and the strikers were."

The undersigned finds that the foregoing remarks of Young, Swisher and Sternberg, as well as Palmer's editorial, above quoted, were designed to cast discredit upon collective activities of Guild members, and constituted interference with rights guaranteed to employees by Section 7 of the Act.

George Palmer, son of one of the respondent's owners, interposed in an argument between two employees relating to a rumor that the plant would close down unless the Guild was less insistent in its negotiating demands. Palmer declared in effect that he knew the rumor to be based upon fact. Although the record shows that the Guild at about this time accused management of spreading such rumors, by protesting to Sargent, attorney and negotiator for the respondent, there is no evidence that the respondent thereafter took reasonable measures to deny such rumors. While the evidence is insufficient to find that the respondent actually

started rumors of closing the plant, it clearly incurred responsibility for spreading reports authenticated by the son of an owner, by failing to make generally known its real position after the matter had been brought to its attention at a grievance meeting. By failing to deny such rumors, the respondent interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

The record contains no evidence to sustain allegations in the complaint that the respondent refused to adjust grievances with the Guild as the representative of its employees.

C. The Discharge of Leonard Lugoff

The complaint alleges that the respondent's answer denies that Leonard Lugoff was discharged on March 30, 1940 because of his union membership and activity. The answer affirmatively alleges (1) that Lugoff was discharged in August 1938 because of his unsatisfactory services; (2) that he was reinstated upon his plea that, since he was not a Guild member and had not gone on strike, he should be treated equal with striking Guild members who were reinstated under the strike-settlement provisions; and (3) that pursuant to the reinstatement agreement he was discharged in 1940 following the Board decision in Case No. C-947 and also because his services had continued to be unsatisfactory to the respondent during the period of reinstatement.

Lugoff began employment with the Citizen-News in 1931. Sometime in 1934 he was assigned to the

classified advertising department and since then, until his final discharge in 1940, engaged in selling classified advertisements as an "outside salesman" in a territory which remained the same throughout his employment.

He joined the Guild in October 1937. He did not take part in the strike of 1938 and was therefore required by the Guild to turn in his membership card.

Lugoff was discharged in August 1938. He testified that he was told by Tobin, manager of his department, that "the strikers were coming back and they had to cut expenses and they decided to let me go." Tobin testified that he informed Lugoff that he was being discharged "because his production had been so low." Since the circumstances then existing support the probability that either or both explanations were made to Lugoff, the undersigned finds that Lugoff was informed that his low production was a cause of his discharge in 1938. In any event, he was not then a Union member. His discharge in 1938 was not discriminatory within terms of the Act.

On August 22, three days later, Lugoff protested his discharge to Palmer. He was reinstated. Lugoff denied Palmer's testimony that he was told his reinstatement would be under the same conditions as those affecting the five employees discharged immediately prior to the strike. It is unnecessary to resolve the conflict on this point, however, since Palmer testified that, had Lugoff's production been

satisfactory in March 1940, he would have been retained. Upon reinstatement Lugoff was notified in writing by business manager Young that he was to be on probation until January 1, 1939.

Examination of records introduced into evidence by the respondent show that during the five-week period in January 1938, Lugoff produced an approximate weekly average of 1000 lines, but that during the same period in 1939 his weekly average was only about 730 lines, a decrease of 27 per cent. Young testified that although he discussed with Tobin, at about this period in 1939, the status of Lugoff's production, "nothing was done at that time." There is no evidence that either Young, who had formally placed Lugoff upon probation, or Tobin, the employee's immediate superior, then or thereafter warned him that unless his production increased he would be discharged.

Lugoff rejoined the Guild in February 1939. At that time there was but one other Guild member in his department, Helen Brichaux, who had taken part in the strike. Lugoff became active in attempting to organize the employees in the classified advertising section. In May he openly circulated a petition authorizing the Guild to represent this group of employees. From the testimony of Tobin, who admitted having heard "rumors" of Lugoff's petition, the undersigned is convinced that by May 1939, the respondent was aware of the employee's union activity. Accompanied by another salesman, Lugoff asked Young, in June, for the establishment

of guaranteed weekly wages. Lugoff's testimony is uncontradicted that, in urging their point, both he and his companion argued that dissatisfaction with wages led to the growth of unions and guilds. Young granted their request. On July 19, and frequently thereafter, Lugoff participated in conferences with management as a Guild committee member. Lugoff testified that in August he was told by Gilman, who passed upon the credit of certain accounts in the display department, that "it would be better for me to quit sticking my nose in Guild affairs and showing less activity because he had it pretty straight that the management was going to weed out everybody connected with the Guild. . . ." Gilman, who was discharged by the respondent subsequent to March 1940, was not called as a witness. Gilman supervised one classification of credits, as assistant to the credit manager. Although the record does not establish that he possessed supervisory powers over employees, the character of his duties plainly placed him in management's confidence, and in a position accurately to reflect the respondent's disapproval of Lugoff's union activities. At about the same time (in August) Lugoff engaged in argument with another employee whom he accused of spreading a rumor to discredit the Guild by stating, according to Lugoff's uncontradicted testimony, that "the management was going to close down the plant if the Guild in its negotiations for a new contract didn't act reasonable." It is also uncontradicted that during this argument George Palmer, son of

one of the respondent's owners, interposed and declared, according to Lugoff, that he "knew that (the rumor) was a fact and he was willing to gamble on it." In March 1940 Lugoff circulated another petition among employees in his department. At the time of his discharge he was the only Guild member among the outside salesmen.

With respect to evidence adduced by the respondent in support of its contention that Lugoff was discharged because of his unsatisfactory production, the record is clear that his lineage production in 1939 was less than in 1937.⁴ The respondent introduced in evidence comparative summaries of Lugoff's lineage and earnings record which show (1) that from July 6, 1939 until the end of that year, his sales earned him a weekly average of \$21.41, and that from the first week in 1940 until his discharge his average weekly earnings were \$19.72; (2) that during the aforementioned period in 1939 his weekly lineage production was 646 lines, while in 1940 until his discharge he averaged 567 lines each week.

Palmer testified that following his receipt of noti-

(4) According to a summary of production records submitted by the respondent, each of the four outside salesmen lost or gained in annual lineage production, from 1937 to and including 1939, as follows:

Reed	6.9% decrease
Allen	30. % decrease
McKellar	10.2% increase
Lugoff	35.7% decrease

fication of the Board's decision in Case C-947 he conferred with Young, was informed that Lugoff's production record had not improved, and that he therefore discharged him.

No detailed analysis of Lugoff's lineage records, however, had been made by management prior to the hearing. Tobin, manager of Lugoff's department, testified that he had never made lineage report on Lugoff. Thus it is clear that, at the time of discharging Lugoff, Palmer did not have before him the comparative analysis above quoted.

The undersigned has examined the detailed weekly production records of each of the four classified salesmen, and is convinced that from them, by arbitrarily selecting certain periods for analysis and comparison, conflicting and misleading conclusions may be drawn not only as to the relative productivity of the four salesmen, but also as to the relative production of a single employee from month to month and year to year. For this reason and because, as above found, the respondent made no statistical analysis of Lugoff's lineage records prior to his discharge, the undersigned considers them as providing doubtful support to the respondent's contention that he was, in fact, discharged because of low production.

Of material significance, however, is the fact determined from the above-mentioned records that, for the five-week period in January 1939, Lugoff's lineage production had dropped approximately 27 per cent from that of the same period in 1938. De-

spite this marked decrease, and although he had been specifically placed upon probation until January 1939, he was not discharged. This fact is persuasive that the respondent did not consider production as a factor which was determinant of Lugoff's retention on the pay roll. He was not thereafter warned that he was still on probation, or that unless his production increased he would be discharged.

In summary, the undersigned is convinced that the real reason for Lugoff's discharge is to be found in the respondent's long-existent antipathy toward the Guild and in Palmer's resentment toward an employee who, reinstated upon the plea that he had left the Guild and had not taken part in the strike, thereafter became notably active in organizing employees in his department. Lugoff failed to heed the warning of Gilman that he had better show "less activity," and discharge was the penalty. Furthermore the undersigned finds to be without merit Palmer's contention that he delayed discharge of Lugoff until March 30, when Schlicter and Yeaman were discharged, for the reason that he had incurred an obligation to retain him by virtue of the strike-settlement agreement. To find this contention meritorious would require the undersigned to ignore documentary evidence (1) that he was placed upon probation until January 1, 1939, and (2) Palmer's letter discharging Lugoff, which stated only that his services were unsatisfactory.

The undersigned finds that the respondent, by discharging Leonard Lugoff on March 30, 1940, discriminated in regard to the hire and tenure of his employment, thereby discouraging membership in the Guild, and thereby interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act.

D. The Discharge of Karl Schlichter.

Pursuant to the strike settlement agreement referred to in Section III A above, the five discharged employees were restored to the respondent's pay roll. Prior to March 26, 1940, 3 of these 5 employees and Karl Schlichter were notified by letter that their employment was terminated. Yeaman's discharge is not in issue. Notification to Schlichter read as follows:

This notice is to terminate your services with us effective this day. We consider you incapable of the type of production we desire from a man in your post.

The complaint in the instant case alleges that Schlichter was discharged on March 30, 1940 because of his union activities. In its answer the respondent denies this allegation but alleges that Schlichter was discharged (1) in accordance with the agreement of July 30, 1938, and (2) because his services continued to be unsatisfactory to the respondent during the period of his reinstatement.

Harlan G. Palmer, president of the respondent

and publisher of the Hollywood Citizen-News, testified that he received notification of the Board decision, above referred to, on March 28, and that when no resignation from Schlichter had been received by March 30, he was discharged. Palmer further testified:

“* * * my interpretation of the Board’s decision was that the Board dismissed the action so far as the question of the regularity of the discharge of these five people was concerned. That was the order, as I read the order, dismissing that action. Therefore, there was no action pending, the Board had held it was legal and dismissed the action, and the day the Board signed the order there was no action then, nothing in existence charging us with the unlawful discharge of the five employees.”

Palmer admitted that he did not communicate with the Guild, prior to the actual discharge of Schlichter or attempt to find out if the Guild would accept the Board’s Decision and Order. At the hearing and in its brief, the Guild contended, in effect, that the respondent acted in bad faith by taking summary action with respect to Schlichter before the Board decision had been accepted by the Guild. The undersigned does not consider that the dispute, as to whether the respondent’s discharge of Schlichter was consistent with or in violation of the terms of the strike settlement, is an issue for his determination. Since the Board found that the discharge in 1938 was not in violation of the Act,

it is clear that the respondent was under no obligation to restore Schlieter to the same substantially equivalent, or any employment.

It is plain, however, from the answer to the complaint and the testimony of Palmer, that the respondent's position with respect to Schlieter's discharge does not rest solely upon its contention that the Board decision absolved it from obligations incurred under the agreement. Palmer testified:

“* * * if Schlieter's services were satisfactory
* * * he would have been kept.”

Within a few days after discharging Schlieter, the respondent informed the Guild not only that he had been dismissed under terms of the agreement but that “his services were not satisfactory.”

It is therefore clear that, prior to the March 30 discharge, the respondent considered that an employer-employee relationship existed between itself and Schlieter. Having again accorded him the status of an employee in 1938, the respondent could not thereafter, with impunity and regardless of any agreement with the Guild, deprive Schlieter of any or all rights guaranteed to employees by the Act.

Thus the sole question for resolution here is whether or not the respondent, following his re-employment, discriminated as to the terms or tenure of Schlieter's employment because of his union membership or activity.

In its Decision and Order, in Case C-947, the Board found that “There is no evidence that

Schlieter was a particularly active member of the Guild." In 1938, however, following his re-employment, he became treasurer and, in 1939, chairman of the Citizen-News unit of the Guild. He participated in a number of grievance meetings with the management.

Upon his return to the respondent's pay roll, Schlieter did not resume his previous duties as promotion manager. He was assigned to assist Sternberg, who was in charge of the national advertising department. In many respects Schlieter's new work differed from that which he had previously performed. However, the record contains no convincing evidence that this assignment to new tasks was discriminatory in character. It is unnecessary here to detail the specific duties assigned to him. The record establishes that all of them fell within the usual requirements of the department. Nor is the undersigned persuaded that any of his assignments were onerous, menial or imposed upon him because of his union membership.

It is clear from the testimony of both Sternberg and Schlieter that the latter was dissatisfied with his new work. Sternberg's testimony is uncontradicted that when he suggested to Schlieter "he get out and call on some accounts and do some selling," Schlieter replied "he wasn't interested in selling or learning to sell." Sternberg complained to business manager Young, according to his testimony, that he would "like to have a man working with me that was interested in the department and in get-

ting along, going somewhere in there.” Schlieter made errors in surveying merchandise stocks at local stores for report to national advertisers. Sternberg testified that when Schlieter was first assigned to the national department, he advised him, “The thing (the strike) is all over now and there is plenty of work for both of us, lots of it, and if we just forget all about it and get in and dig that he would be able to accomplish quite a lot,” but that Schlieter replied, “It wouldn’t be of any use because if the Guild loses the case I will be out of here anyway.” Schlieter denied making this statement. From his observation of the two witnesses on the stand, the undersigned does not credit Schlieter’s denial, and finds that the conversation occurred substantially as quoted from Sternberg’s testimony.

Schlieter testified that on one occasion, in late 1938 or early 1939, he was warned by Swisher and Young, managing editor and business manager respectively, for talking with Miss Killoran, an active Guild member in the editorial department, and that he was unjustly accused of discussing Guild matters with her during working hours. The evidence does not support a conclusion that, because management reprimanded Schlieter in 1938 or 1939 it must follow that he was discharged in 1940 because of union activity.

The evidence establishes that neither during the strike nor thereafter has the respondent assigned anyone to the position of promotion manager. Promotion work has been variously distributed among

department heads and for a period in 1939 and early 1940 certain special features were prepared by a free-lance publicist. The Board found, in its Decision and Order in Case No. C-947, that the choice of Schlieter for discharge in 1938, "whose job was a newly created one and whose work was not immediately productive in a concrete way, was not an unreasonable move for an employer to make when faced with losses and the need for retrenchment." There is no persuasive evidence in the record of these proceedings which would support a finding that the respondent discriminated against Schlieter by not reopening the position from which the Board found he was justifiably discharged in 1938.

While the case is not entirely free from doubt, the undersigned finds that the evidence does not support the allegation in the complaint that Schlieter's discharge in March 1940 was because of his union membership and activity.

IV. The Effect of the Unfair Labor Practices upon Commerce

The undersigned finds that the activities of the respondent set forth in Section III B and C above, occurring in connection with the operations of the respondent described in Section I above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. The Remedy

Having found that the respondent has engaged in unfair labor practices within the meaning of Section 8 (1) and (3) of the Act, it will be recommended that it cease and desist therefrom, and that it take certain affirmative action to effectuate the policies of the Act.

With respect to Leonard Lugoff, it will be recommended that the respondent offer to him immediate and full reinstatement to his former or a substantially equivalent position, without prejudice to his seniority or other rights and privileges, and to make him whole for any loss of pay suffered as a result of the respondent's discrimination, by paying to him a sum of money equal to the amount he would normally have earned as wages from March 30, the date of the discrimination against him, to the date of the offer of reinstatement, less his net earnings during such period.⁵

(5) By "net earnings" is meant earnings less expenses, such as for transportation, room, and board, incurred by an employee in connection with obtaining work and working elsewhere than for the respondent, which would not have been incurred but for his unlawful discharge and the consequent necessity of his seeking employment elsewhere. See *Matter of Crossett Lumber Company and United Brotherhood of Carpenters and Joiners of America, Lumber and Sawmill Workers Union, Local 2590*, 8 N. L. R. B. 440. Monies received for work performed upon federal, state, county, municipal, or other work-relief projects shall be considered as earnings. See *Republic Steel Corporation v. N. L. R. B.*, decided by United States Supreme Court, November 12, 1940.

CONCLUSIONS OF LAW

1. Los Angeles Newspaper Guild is a labor organization within the meaning of Section 2 (5) of the Act.

2. By discriminating in regard to the hire and tenure of employment and terms of employment of Leonard Lugoff, thereby discouraging membership in the Guild, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (3) of the Act.

3. By interfering with, restraining and coercing its employees in the exercise of rights guaranteed in Section 7 of the Act, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (1) of the Act.

4. The aforesaid unfair labor practices are unfair labor practices affecting commerce, within the meaning of Section 2 (6) and (7) of the Act.

5. The respondent has not engaged in unfair labor practices with respect to Karl Schlichter.

RECOMMENDATIONS

Upon the basis of the above findings of fact and conclusions of law, the undersigned hereby recommends that the respondent, The Citizen-News Company, Hollywood, California, and its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Discouraging membership in Los Angeles Newspaper Guild, or any other labor organization

of its employees, by discharging, or refusing to reinstate any of its employees, or in any other manner discriminating in regard to their hire and tenure of employment;

(b) In any other manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purposes of collective bargaining or other mutual aid and protection, as guaranteed in Section 7 of the Act.

2. Take the following affirmative action, which the undersigned finds will effectuate the policies of the Act:

(a) Make whole Leonard Lugoff for any loss of pay he may have suffered by reason of the respondent's discrimination against him, by payment to him of a sum of money equal to that which he normally would have earned as wages from the date of his discharge to the date of the offer of reinstatement, less his net earnings during said period;

(b) Post immediately in conspicuous places throughout its plant in Hollywood, California, and maintain such notices for a period of sixty (60) days from the date of the posting, notices to its employees stating (1) that the respondent will not engage in the conduct which it is recommended to cease and desist in paragraph 1 (a) and (b)

of these recommendations; (2) that the respondent will take the affirmative action set forth in paragraph 2 (a) of these recommendations; and (3) that the respondent's employees are free to become or remain members of the Los Angeles Newspaper Guild, and that the respondent will not discriminate against any employee because of membership or activity in this organization.

(c) Notify the Regional Director for the Twenty-first Region in writing within ten (10) days from the date of this Intermediate Report what steps the respondent has taken to comply herewith.

It is further recommended that the complaint, in so far as it alleges that the respondent engaged in unfair labor practices with respect to the hire and tenure of employment of Karl Schlieter, be dismissed.

And it is further recommended that unless, on or before twenty (20) days from the receipt of the Intermediate Report, the respondent notifies said Regional Director in writing that it will comply with the foregoing recommendations, the National Labor Relations Board issue an order requiring the respondent to take the action above recommended.

Any party may, within thirty (30) days after the date of the order transferring this case to the Board, pursuant to Section 32 of Article II of National Labor Relations Board Rules and Regulations, Series 2, as amended, file a brief with the Board, Shoreham Building, Washington, D. C. Should any party desire permission to argue orally

before the Board, request therefor must be made in writing to the Board within twenty (20) days after the date of the order transferring the case to the Board, pursuant to said Section 32 of said Article II.

C. W. WHITEMORE,
Trial Examiner.

Dated: January 13, 1941.

[Title of Board and Cause.]

STATEMENT OF RESPONDENT'S
EXCEPTIONS

TO THE INTERMEDIATE REPORT

Comes now the Respondent, The Citizen-News Company, a corporation, and excepts to the Intermediate Report of Trial Examiner C. W. Whittemore, bearing date of January 13th, 1941, in the following particulars, to-wit:

As a preliminary exception to the Examiner's statement of the case, attention is called to the statement of the Examiner that "Although counsel for the respondent requested, and was granted, an extension of time until December 21, 1940 for filing a brief, no brief was filed." While the matter is unimportant, it reveals the ease with which the Examiner has permitted himself to drift into inaccuracies, as the official record discloses no request by Respondent for an extension of time

for filing a brief and so far as the recollection of Respondent is concerned, no such extension was requested by it.

FINDINGS OF FACT

I. The Respondent and Its Business

(1) Respondent excepts to the Findings of Fact upon the ground that the Examiner neglected to state that the approximately twenty-one (21%) per cent. of the reading matter in the Hollywood Citizen-News, comprised of news collected outside the State of California, was transmitted to it by the Associated Press and United Press from their respective offices located within the State of California, and that news does not come directly to Respondent, or its publications, from without the State of California. (P. 17, L. 25—P. 18, L. 12)

II. The Organization Involved

No exceptions.

III. The Unfair Labor Practices

A. Background

No exceptions.

B. Interference, Restraint and Coercion

(1) Respondent excepts to that portion of the Report of the Examiner in which he refers to case No. C-947, in which the Board ordered the Respondant "to post notices that it would cease and desist from such conduct", and while calling attention that

Respondent has not complied with this order and that Palmer testified, "We have no intention to do so until the Court orders us to do so.", the Examiner neglected to state that although a considerable period of time has elapsed since the decision, the Board has thus far not deemed that its case justified an application to the Court for the enforcement of the order.

(2) That the Examiner, in calling attention to the fact that Respondent has not complied with the Board's order in Case No. C-606 and R-712, decided September 1st, 1938, in which the Board also concluded that Respondent had violated Section 8 (1) and (2) of the Act, failed to mention the further fact that the Board has not seen fit to ask the Court for an order to enforce its order in this case; and, furthermore, that the holding of an election which was to have been held within forty-five (45) days, pursuant to the order of the Board, has never been held although approximately seventeen (17) months have elapsed since the date of that order.

(3) That as evidence of interference, restraint and coercion, the Examiner referred to an editorial appearing in the issue of the Hollywood Citizen-News on August 1st, 1938, (Board's Exhibit #15), fourteen (14) months prior to the hearing in this case, and cited only one paragraph therefrom without making further reference to the entire editorial, which was produced in evidence during the trial of this case and a copy of which is attached hereto as Exhibit "A" to these Exceptions; and that the

Examiner failed to state that the record disclosed no evidence that the effect of this editorial did constitute interference, restraint or coercion upon employees of Respondent, and that on the contrary the testimony of Leonard Lugoff, one of the employees whose dismissal caused the case, indicated that he had no fear and believed there was no basis for any fear; (P. 231, L. 3-10); That the Examiner did not seek to determine whether the statements appearing in said editorial were true or whether they were the honest opinions of the writer of the editorial; that nothing in the record indicates any effort to disprove any of the statements contained in the editorial or to challenge the sincerity of the writer; and that the Examiner, in seeking to prohibit the publication of future editorials of a similar nature, did not concern himself with the problem as to whether they might be true or false.

(4) That as evidence of interference, restraint and coercion, the Examiner quoted from the testimony of Patricia Killoran, with regard to statements allegedly made to her by Messrs. Young, Swisher and Sternberg, which the Examiner states constituted interference with rights guaranteed to employees by Section 7 of the Act, but did not make a finding as to whether or not Miss Killoran was telling the truth in her testimony or whether the statements were true or false, or whether Miss Killoran was a credible witness whose word was to be taken at its face value; that the Examiner made no finding *at* to whether the other statements con-

tained in the testimony of Miss Killoran, if actually made by the persons to whom they were attributed, were true (Ps. 409-494); that the Examiner failed to point out that these statements, if made at all, were made in August, 1938, just after the close of a bitter eleven (11) weeks strike during which one-half ($1\frac{1}{2}$) the Guild members had refused to join the twenty-five (25) employees who did strike and had remained at work with the two hundred twenty-five (225) employees who refused to go on strike; that the Examiner failed to state that Miss Killoran is, and has been, the Chairman of the Citizen-News Unit of the Guild since March 30th, 1940 (P. 453, L. 7-12) and may therefore be deemed to have a strong self-interest and possible prejudice in the subject matter of the testimony given by her; that the Examiner failed to refer in his Report to the testimony of Mr. Young: "Well, as a matter of fact, I can't talk about these things (unions) because I am not allowed to.", or Miss Killoran's emphatic reply: "Well I can talk about them." (P. 425, L. 1-3); that the Examiner failed to point out that Miss Killoran had been very active in her leadership in the Guild for some time back, had mailed out some twelve (12) to fourteen (14) pieces of literature to prospective Guild members within the Citizen-News organization (P. 455, L. 1 to P. 456, L. 10); that she had boasted of the achievements of the Guild in its contracts with the Citizen-News and emphasized the advantages of member-

ship in the Guild; the Examiner also failed to point out that in May, 1939, she openly solicited the Guild membership of an employee working at the front counter in the business office of Respondent (P. 484, L. 24 to P. 485, L. 10); that Miss Killoran in her testimony demonstrated that the opinions expressed with regard to her by others in Respondent's employ had no interference, restraint or coercion upon her Guild activities and that there was no evidence that anyone else heard the remarks, if made; and that Respondent in its testimony made no effort to question the trustworthiness or credibility of Miss Killoran, nor attempted to make either or both of them an issue in this case.

(5) The Examiner in referring to testimony of an argument in 1939 between two (2) employees (P. 177, L. 9 to P. 180, L. 8) relative to a rumor that the plant would close down unless the Guild was less insistent in its negotiating demands and that George Palmer, stated to be a son of one of Respondent's stockholders, commented that he knew the rumor to be based on fact, failed to point out that the testimony disclosed that George Palmer was not the son of Harlan G. Palmer, the Publisher of the Citizen-News, and the individual referred to by the Examiner as "Palmer"; that George Palmer was not working in a supervisory capacity, but as an employee with equal rights to engage in verbal argument with Lugoff and Badovinac, and that there is no testimony in the record to indicate that the said Harlan G. Palmer, or

any supervisory employee, at any time engaged in spreading the rumor that the plant would close down or made any such statement; that the Examiner failed to state that Mr. Willis Sargent, the Representative of the paper in its negotiations with the Guild, proceeded immediately thereafter to conclude a contract concerning which the Guild subsequently expressed its pleasure and pride, thus demonstrating clearly that the rumors, if any, were false and that nobody had been interfered with, restrained or coerced, and that Palmer denied ever having made any such statements (P. 738, L. 7-21); the Examiner in his finding that "by failure to deny such rumors Respondents interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act" seemed to have assumed that the Management either was responsible for the rumors or that it should prohibit non-supervisory employees from holding discussions with, or expressing disagreement with, any member of the Guild, and it is submitted that there is not the slightest evidence of the former and that for the Management to attempt the latter would be going far beyond the Management's province as to non-supervisory employees.

C. The Discharge of Leonard Lugoff

Respondent excepts to the Findings of the Examiner with regard to Leonard Lugoff as follows:

(1) That the Examiner failed to include in his Intermediate Report certain facts of Lugoff's employment history (P. 200, L. 8 to P. 205, L. 18);

that he had been originally employed by the Hollywood Citizen, Respondent's predecessor, and had been discharged by that paper (P. 202, L. 7-10); that he had gone to work for the Hollywood News and was so working when the Hollywood Citizen bought the Hollywood News in 1931; that after beginning his employment with the Citizen-News in 1931, as stated by the Examiner, he resigned in 1932 to go to work for the Los Angeles Evening Herald, for which he worked for a period of six (6) months (P. 204, L. 15-18); that he then took a position with the Venice Vanguard and Culver City Star, which he held for only one (1) year (P. 204 L. 18-21); immediately following that he did nothing for six (6) months (P. 204 L. 22 to P. 205 L. 21); he then returned to the Citizen-News in 1934 as a subscription solicitor (P. 205 L. 8-10); that about six (6) months later he changed his work to that of the Classified Advertising Department (P. 205 L. 22 to P. 206 L. 9); and that these frequent changes of work, whether voluntary or not, indicated either an unwillingness or inability to become located in the right type of work and to continue in the same.

(2) That the Examiner, in finding that Lugoff's discharge for low production by the Classified Advertising Manager, Mr. Tobin, in August, 1938, and in finding that this discharge was not discriminatory since Lugoff was not at the time a union member, indicated that in his opinion it was un-

necessary to resolve the conflict as to the conflicting testimony of Palmer and Lugoff as to whether or not the latter's reemployment was accompanied by a statement that his reinstatement would be under the same terms and conditions as those affecting the five (5) employees discharged immediately prior to the strike; that the Examiner did not accurately quote Palmer's testimony with regard to this (P. 80 L. 12-24); that the fact that Palmer did testify that "had Lugoff's production been satisfactory in 1940 he would have been retained" does not affect the importance of the conflict between the testimony of Palmer and Lugoff but did, on the other hand, indicate a willingness on the part of the Management to retain Lugoff if his production was satisfactory, which it was not, and that in that event Palmer would have waived consideration of other factors which, according to Palmer's testimony, justified Lugoff's dismissal along with five (5) employees mentioned above.

(3) That the Examiner did not see fit to set forth in his Intermediate Report important testimony given at the trial by Lugoff and necessary to indicate whether Lugoff testified accurately on matters important to him at the trial; that Lugoff testified: (P. 152 L. 11 to P. 153 L. 14)

"Q. State your conversation with Mr. Palmer.

A. Well, I came into Mr. Palmer's office and Mr. Young and Mr. Palmer were seated there. I told Mr. Palmer that I wanted to speak

to him about my discharge last Friday and he said for me to go right ahead and tell him all about it.

So I told him that I had been employed in classified for the past five years, that up to the time of the strike my production warranted my employment. I was bringing in enough business to more than pay for my employment, and during the strike the three months, May until August, that my production in advertising had dropped considerable. I told him that I was a member of the Guild before the strike and gave up my membership card at the time of the strike.

I told him that I took up with Tobin before going on my vacation two weeks previously about my low production, telling him about the contemplated loan and getting Tobin's O. K. that it was all right to go ahead. I told him that now that I had a \$300 debt on my shoulders and no job that I knew that Mr. Palmer himself was not legally responsible but the debt would nevertheless have to be paid and it would never have been incurred if Tobin hadn't told me that my job was O. K. And I left it at that. That is——

Q. What did he say?

A. He thought a minute and he said, 'Do you want us to pay that \$300 or do you want your job back?'

Q. What did you say?

A. I said naturally I had to work. Well, he said, 'Lugoff, you go downstairs and wait an hour and Mr. Young and I will talk it over.' "

(P. 154, L. 2-6)

"Then you went downstairs. What was the next thing that happened.

A. I waited a half an hour and Mr. Young came and handed me a slip of paper with the stipulations by which I was rehired back."

that the said slip of paper, Board's Exhibit 16, read as follows: (P. 156 L. 2-6)

"Q. (By Mr. Sokol) Now, referring to Board's 16, it is very brief, it says: 'You will be retained in your present position with final decision to be made on January 1, 1939. The intervening period will be probationary. T. H. Young, business manager, dated August 22, 1938.' "

that Lugoff made many references in his testimony to the fact that he had obtained from the Bank of America a Three Hundred (\$300.00) Dollar loan at this time, which he states was in reliance upon Mr. Tobin's statement that his job was safe and that some of the references made by Lugoff to this loan are as follows:

"I said Mr. Tobin . . . I have to send my wife back east . . . I need \$300 on this loan . . . (P. 234 L. 20); I made it through the Bank of

America . . . (P. 235 L. 11-12); I had got a \$300 loan on my shoulders . . . (P. 236 L. 9); I had that loan . . . the loan was spent . . . get that loan off my shoulders . . . on account of that loan . . . worried about that \$300 loan . . . (P. 237 L. 1-20)''

That on the bottom of Page 309, beginning Line 25, and at the top of Page 310, Line 9, Lugoff testified as follows:

“Q. This loan of \$300 that you said you had obtained was that a loan on your car?

A. I think it was, yes.

Q. Your car had been clear prior to that time that you made that loan?

A. That is right.

Q. It was in August, 1938? A. Yes.

Q. You made the loan from the Bank of America? A. That is right.”

that this and other testimony indicates that at this point in the testimony Lugoff stated unmistakably that he had obtained the Three Hundred (\$300.00) Dollar loan from the Bank of America on his car in reliance upon Mr. Tobin's statement, and that other references to the loan are found as follows:

“I have got a \$300 loan . . . (P. 241 L. 17); This loan . . . (L. 18); That loan . . . (L. 21); Pay it back . . . (L. 22); I have had it . . . (L. 23); The loan . . . (L. 25); The loan . . . (P. 242 L. 6); The loan . . . (L. 15); That \$300

debt . . . the \$300 loan . . . the \$300 was paramount. (P. 320, L. 3-6); That \$300. (P. 322, L. 18); The \$300 . . . (P. 323, Line 9)''

that the Examiner in his Report failed to state that after these many expressions in Lugoff's testimony that he had incurred this indebtedness at this time, Respondent called as a witness an employee of the Bank of America, who produced the Bank's records from which it was stipulated (P. 710, L. 3-8) that on July 27th, 1938, Lugoff made a loan from the Bank in the total sum of One Hundred Sixty-five (\$165.00) Dollars, and that in addition there was outstanding Thirty-two Dollars and Fifty Cents (\$32.50) from a previous loan of Forty-five (\$45.00) Dollars, made June 18th, 1938; That the witness from the Bank testified (P. 713 L. 1-4) that the balance of Thirty-two Dollars and Fifty Cents (\$32.50) on the earlier loan was paid by Lugoff on August 19th, 1938; that it thus appeared that when Lugoff came to the office of Palmer on August 22nd, 1938, and specifically mentioned a Bank loan of Three Hundred (\$300.00) Dollars that the loan was actually One Hundred Sixty-five (\$165.00) Dollars and not Three Hundred (\$300.00) Dollars, which Respondent believes has an unmistakable bearing upon Lugoff's credibility and the testimony given by him in this case; that later Lugoff was recalled to the stand by counsel for the Board and that the following testimony appears in the record: (P. 767, L. 16 to Page 768, L. 12 to P. 770, L. 17 to P. 771, L. 17)

“Q. (By Mr. Sokol) Mr. Lugoff did you . . . have to borrow \$300 prior to your discharge in August, 1938?

A. Yes sir, I did . . . we went outside, from the family and got the rest. I might add at this time that it was a sick sister in New York that had suddenly developed cancer and it was partly the family affair as far as——

* * * * *

Q. Did you tell the company you borrowed \$300 from the bank?

A. I didn't mean to give that interpretation. I meant I incurred an indebtedness of \$300.

* * * * *

Q. (By Mr. Palmer) From whom did you borrow the difference between \$165 and the \$300, Mr. Lugoff?

A. From my brother-in-law.

Q. Did you get that by check?

A. I don't know. I don't believe so. My wife got it.

* * * * *

Q. Is he her brother?

A. He is her brother.”

That although the Examiner stated in his report that he was not resolving the conflict of Lugoff's testimony with that of Palmer, he in fact did resolve it in favor of Lugoff and did so in spite of the fact that he had before him the false statement of Lugoff with regard to the Three Hundred (\$300.00) Dollar

loan; that Palmer's version of the conversation with Lugoff appeared on P. 78, L. 7-13 and P. 79, L. 14 to P. 80, L. 24 of the Transcript, as follows:

"Q. (By Mr. Sokol) What did he (Lugoff) say?

A. (By Palmer) Well, that the strikers had been returned to their jobs, that five people we had discharged for economy were being reinstated until the end of the National Labor Relations Board case and that he, Lugoff, had not gone out on strike and he did not believe that he should receive any less treatment than those who had been on strike.

* * * * *

Q. Now, you have discussed it with either Mr. Tobin or Mr. Young?

A. Perhaps both, I don't know.

Q. What did you discuss with them?

A. Mr. Lugoff's appeal.

Q. What did you say about it?

A. I said that I thought it was—that there was a great deal of merit in his appeal.

Q. All right.

A. And that since we were under obligation, by virtue of our agreement we were taking other people pending decision, we saw no reason why Mr. Lugoff shouldn't be given equal consideration.

Q. Did you see Mr. Lugoff after that?

A. Well——

Q. At that time did you reinstate him personally? A. No, I don't think I did.

Q. Who reinstated him?

A. Well, I can't say whether Mr. Tobin did or Mr. Young.

Q. Did you tell Mr. Young what to say to him? A. No.

Q. You didn't? A. No.

Q. What did you tell Mr. Young to tell Mr. Lugoff, that he was reinstated under the precise conditions that these five people were reinstated pursuant to that strike settlement agreement?

A. No, I don't recall telling Mr. Young to tell him that precisely. That was the basis of Mr. Lugoff's appeal.

Q. Did you tell Mr. Young when Mr. Lugoff's employment was determined?

A. No, no.

Q. Did you ever tell Mr. Lugoff that he would be reinstated under the precise conditions that the five employees named in the strike settlement agreement were reinstated?

A. No, I personally didn't tell him that."

that with reference to the discharge of Lugoff on March 30th, 1940, Palmer's testimony, also in response to questions by the Board's Attorney Mr. Sokol, beginning at the bottom of Page 80, Line 25, and continuing on Page 81 and 82 to Line 8 of the transcript, was as follows:

"Q. Did you determine to—when did you discharge Mr. Lugoff after that?

A. I say I am not sure. I personally didn't discharge him.

Q. The last time?

A. Oh, the last time. His notice went out the same time as Mr. Schlichter's, I am sure.

Q. Why?

A. Why?

Q. Yes.

A. Because he had been reinstated because these other people were being reinstated. They now were being let out and Mr. Lugoff was in the same position as to unsatisfactory production as he was and he should also be let out, for that reason he was let go. Our obligations to Mr. Lugoff, to be fair with him on the basis of dealing with the others, had ceased. The others were being let off.

Q. What obligation did you have to him?

A. Only the obligation that was represented by his appeal, that since those who had been on strike were being taken back he, Mr. Lugoff, should be reinstated.

Q. You were forced by a strike settlement agreement to take these five employees back?

A. Yes, that is right.

Q. You didn't want to take them back?

A. No, that is right.

Q. Now, why did you take Mr. Lugoff back in August, 1938?

A. Because if we could take back the others under force there was no reason why we shouldn't take Mr. Lugoff back under a gentlemanly appeal.

Q. Now, under the same reasoning, why didn't you extend your leniency to that particular date in March, 1940, when you discharged him?

A. The reason then has ceased to exist."

and attention should also be called to Palmer's testimony during the latter part of the case (P. 749, L. 16-19 and P. 750, L. 13-16), this time in answer to questions by Mr. Sargent, Attorney for the Respondent.

(4) That when the Examiner placed considerable emphasis in his Report upon the fact that when Lugoff was reinstated following his discharge by Mr. Tobin in August, 1938, and was advised by Mr. Young, in writing, that he was on probation until January 31st, 1939, the Examiner ignored completely the provision in the Strike Settlement Agreement that there were to be no economy discharges prior to January 1st, 1939, and the testimony of Roger Johnson (Pgs. 508-511) that a committee came to Palmer prior to January 1st, 1939, to protest against any dismissals for economy reasons upon or after January 1st, 1939, and that no such dismissals were made.

(5) That the Examiner in his Finding "There is no evidence that either Young, who had formerly placed Lugoff upon probation, or Tobin, the employe's immediate superior, then or thereafter warned him that unless his production increased he would be discharged.", ignored the testimony of

Mr. Young (P. 704, L. 7 to P. 705, L. 5) as to his conversation with Lugoff prior to July 1st, 1939, at which time a minimum guarantee of Twenty-four Dollars (\$24.00) a week was given to Lugoff and others, and at which time Mr. Young told Lugoff "that people working under that guarantee would be expected to hold to earnings in line with them"; that at the time of the August 1st, 1938, discharge of Lugoff by Tobin for low production, when Lugoff was not a member of the Guild, and when Palmer had reinstated Lugoff over the heads of Tobin and Young, the only course of action remaining to Tobin and Young was to seek to raise his production until such time as Palmer was willing to agree to his dismissal.

(6) That the Examiner overlooked complete the possibility, and in this case it is believed by Respondent the probability, that an employee, knowing full well that his production did not justify his continued employment, sought to make a pretense of union activity in the belief that the National Labor Relations Board would protect him in his job, regardless of whether his production was satisfactory or regardless of whether he properly applied himself to his work.

(7) That the Examiner's statement that "In May (1939) he (Lugoff) openly circulated a petition authorizing the Guild to represent this group of employees." does not jibe with Lugoff's testimony, as revised by him on cross-examination, that he secretly and not openly circulated said petition, that

he refrained from approaching five (5) of the twelve (12) members of the Classified Advertising Department, that he approached only six (6) others and himself, and that from the six (6) he obtained only three (3) signatures, one of which was that of Helen Brichoux, another member of the Guild (P. 221, L. 1 to P. 230, L. 24, inclusive, and P. 300, L. 1 to P. 303, L. 7).

(8) The Examiner's statement of opinion that the Management knew of these activities of Lugoff at about the time they took place, and that the Management waited until nearly a year later to discharge Lugoff and then did so for union activity hardly seems consistent for the reason that if the Management had determined to discharge Lugoff for union activities it would certainly not have waited until nearly a year later to do so.

(9) That the Examiner in his report seemed to imply by his Finding "Lugoff's testimony is contradicted that, in urging their point, both he and his companion argued that dissatisfaction with wages led to the growth of unions and guilds. Young granted their request", that there was something wrong or reprehensible on the part of the Management or Mr. Young in *exceeding* to Lugoff's request for the establishment of a guaranteed weekly wage, whereas, on the contrary, Palmer believes that this was an indication that not only was Lugoff not discriminated against, but that when he made a suggestion which contained merit it was adopted.

(10) That the Examiner points out that Lugoff attended meetings held by the Guild and the Management, but neglects to refer to Lugoff's testimony (P. 292 L. 20 to P. 295, L. 21) that many others also attended such meetings and that none of them were discharged.

(11) That the Examiner, in referring to a conversation between Lugoff and another employee named Gilman, stated: "Although the record does not establish that he possessed supervisory powers over employees, the character of his duties plainly placed him in management's confidence, and in a position to accurately reflect management's disapproval of Lugoff's union activity.", and that this statement was made in spite of the fact that the record contains no evidence to show that the duties of Gilman placed him in the Management's confidence or that he in any regard did reflect the Management's opinions; that Lugoff testified (P. 289, L. 25 to P. 290, L. 15 and P. 307, L. 22 to P. 308, L. 17) that Mr. Smith was Credit Manager, that Mr. McCormick was under him and that Gilman was Display Credit Manager under Smith and that Mr. Smith passed on doubtful credits so that we have here a Department head with three (3) men working under him (George Palmer being the third) and the Examiner, without the slightest supporting evidence, permits his imagination to lead him to the conclusion that one of the lowest ranking persons in the Department is in the Management's confidence and in a position to reflect the Management's opinions,

which would mean that every employee in the plant would be in exactly the same position.

(12) That in the same connection, the Examiner refers to George Palmer (not the son of Palmer, the Publisher) stating that George Palmer told Lugoff "the management was going to close down the plant if the Guild in its negotiations for a new contract didn't act reasonable.", whereas the Management had no intention of shutting down the plant and immediately proceeded to execute a new contract with the Guild, indicating how little George Palmer knew about the Management's intentions or views.

(13) The Examiner states that in March, 1940, Lugoff circulated another petition, whereas Lugoff testified (P. 299, L. 7 to P. 300, L. 3) that he didn't any more than get started with this petition; that the Examiner did not mention the contents of the petition, which contain the following statement:

"... Believing, as the management has stated from time to time, that all workers of all departments in the Citizen-News are entitled to the Rights and Privileges obtained by the editorial department in its contract with the management, and, taking the management at its word when it further states that they the Citizen-News, although believing that all the workers of all departments are entitled to those Rights and Privileges, will not bind themselves in any way to recognize such Rights and Privileges until such departments do obtain a major-

ity of workers in their respective departments and do then petition a bargaining agent under the National Labor Relations Act."

that this statement drawn by Guild members certainly refutes the contention of the Examiner that prior to the time (March, 1940) Respondent had been interfering with, restraining or coercing its employees in the exercise of their rights of union activity.

(14) That the Examiner makes certain findings with reference to Lugoff's low production, but ignores completely the contradictory testimony of Lugoff on direct examination by the Board's Attorney that his earnings had increased steadily from December, 1939, up until the time of his discharge on March 30th, 1940 (P. 170, L. 1-4 and P. 263, L. 8-13); that to show the untruthfulness of Lugoff's testimony the Respondent offered in evidence (P. 602, L. 5 to P. 604, L. 10) compilations made from the original records of the paper and which records had been subpoenaed by the Board; that these records show that for the six (6) months prior to January 1st, 1940, Lugoff's average weekly earnings were Twenty-one Dollars and Forty-one Cents (\$21.41), but that during all of this time he was paid a minimum of Twenty-four (\$24.00) Dollars, and that his average lineage during that period of time was six hundred forty-six (646) lines, while for the thirteen (13) weeks between January 1st, 1940, and the time of his discharge in March of that

year, Lugoff's average weekly earnings were only Nineteen Dollars and Seventy-two Cents (\$19.72) and his average weekly lineage only five hundred sixty-seven (567) lines; and that Respondent is at a loss to understand how the Examiner could have completely ignored such statements on the part of Lugoff in determining the credibility to be given to his testimony.

(15) That the Examiner ignores completely testimony to the effect that a messenger boy, Wally Sellers, who replaced Lugoff and had had little or no experience in this type of work, averaged weekly earnings of Twenty-one Dollars and Fifty-eight (\$21.58) for his first seven (7) months, which was considerably more than Lugoff, with his wide opportunity for experience, had earned for some time prior thereto.

(16) That the Examiner ignores the testimony both of Palmer and of Young, the Publisher and Business Manager of Respondent, that they had seen Lugoff sleeping in his car during working hours, although said testimony was denied by Lugoff, and the undenied testimony of Tobin (P. 674, L. 14-17) that on a number of occasions he had seen Lugoff playing pin ball marble games during working hours, at one time for an hour and twenty minutes (P. 675, L. 4 to P. 676, L. 14), the testimony of Tobin (P. 583-591) that Lugoff repeatedly failed to make calls he was requested to make by Tobin,

and that Tobin frequently talked to Lugoff about his low production (P. 593, L. 9-16).

(17) That the Examiner states that "at the time of discharging Lugoff, Palmer did not have before him the comparative analysis" and thereupon draws the conclusion that Lugoff's discharge was for reasons of discrimination rather than because of unsatisfactory production, but in drawing this conclusion the Examiner ignores the fact that the Management was well aware of Lugoff's low and unsatisfactory production; that the comparative analysis was prepared only after Lugoff had falsely testified as to his earnings (P. 170, L. 3-4; the Examiner states in his report that "Palmer testified that following his receipt of notification of the Board's decision in Case C-947 he conferred with Young, was informed that Lugoff's production record had not improved, and that he therefore discharged him.", but because the detailed analysis of Lugoff's lineage records had not been made prior to the hearing, the Examiner draws the unjustified conclusion that at the time of the discharge low production had nothing to do with the discharge; nor did the Examiner point out or apparently consider that the records subpoenaed by the Board, without a detailed analysis, were such as to show that Lugoff's production record was low and had not improved and that if it lead to his indiscriminatory discharge in 1938, it certainly justified his discharge in 1940.

(18) That the Examiner states that he has examined records of other classified salesmen and has

satisfied himself that conflicting conclusions may be drawn as to the relative production of a single employee from month to month and from year to year, but he does not give the reasons for the bases for his conclusion and it is significant that the records show unmistakably that Lugoff's production was low and continued to be even lower up to the time of his discharge.

(19) That the Examiner by his statement that Lugoff's production record for the first five (5) weeks of January, 1939 was twenty-seven (27%) per cent. lower than for the first five (5) weeks of January, 1938, but he was not discharged, finds that his own comparison is a basis for drawing a conclusion but that the comparisons of Respondent, going over a longer period of time, are not sufficient from which to draw proper conclusions; and, furthermore, the fact that Lugoff was not discharged the moment the Management found that he was no longer producing sufficient to warrant his retention, should be a matter of gratification to the Examiner, rather than lead him to a conclusion that the Management should have fired Lugoff then and there for low production, and that Respondent, instead of being penalized, should be given credit for extending the time within which Lugoff might raise his production to a satisfactory level.

(20) That the Examiner, toward the end of his Findings with regard to Lugoff states: "In summary, the undersigned is convinced that the real

reason for Lugoff's discharge is to be found in the respondent's long-existent antipathy toward the Guild and in Palmer's resentment toward an employee who, reinstated upon the plea that he had left the Guild and had not taken part in the strike, thereafter became notably active in organizing employees in his department.''; that this statement of the Examiner is without foundation in the evidence and, on the contrary, appears to be a conclusion to which the Examiner wished to arrive, regardless of the evidence, because there was no evidence in the record of "respondent's long-existent antipathy toward the Guild", nor evidence of Palmer's resentment toward Lugoff, but rather the contrary, and no evidence that Lugoff became "notably" active in organizing employees in his department; that on the contrary the record does contain evidence, such as that in the petition Lugoff claims he circulated in March, 1940, just prior to his discharge, and referred to above, together with evidence contained in the notice by the Management to all employees, under date of April 1st, 1940, (P. 735 L. 7 to P. 736, L. 2), that the Management would continue to recognize the right of employees to join or not to join a union, that the Management would continue to recognize the right of employees to bargain collectively through their own representatives, and that no person had any authority to express for or on behalf of the Management any view contrary to such assurances; and that the Examiner also ignored, in arriving at his conclusion, the Manage-

ment's posted notice of November 3rd, 1939, to the effect that the Management would not indicate to its employees what course they should take in reference to joining unions.

(21) That while the Examiner had stated that he declined to resolve the conflict of evidence between Lugoff and Palmer as to Lugoff's reinstatement and attempted to belittle Palmer's statement, he nevertheless forgot himself and stated that Lugoff was reinstated, not because of "That \$300 loan", but upon the plea that he had not taken part in the strike.

(22) That the Examiner then finds to be without merit Palmer's contention that he delayed discharge of Lugoff until March 30th, 1940, when Schlichter and Yeaman were discharged, and ignores completely the fact that if Palmer's contention were true that he was trying to treat Lugoff the same as the employees who had gone off on strike, this was the time when Lugoff would have been let go along with Schlichter and Yeaman and that the fact that Lugoff was retained until this time, in spite of his low production, is substantial evidence of the truth of Palmer's statement as to the reason for Lugoff's reinstatement in August of 1938, and that it was not until the dismissals of Schlichter and Yeaman that Palmer felt he had, in leaning over backwards to be fair to Lugoff, given him in every regard the same consideration as those who had proved less loyal to Respondent; that the Examiner in his statement that he could not find Palmer's contention to

be meritorious unless he were prepared to ignore documentary evidence (1) that Lugoff was placed upon probation until January 31, 1939, and (2) Palmer's letter discharging Lugoff on the ground that his services were unsatisfactory, gives evidence of a desire on his part of an intent to adopt strained and unusual interpretations of both those documents and that he ignored the fact that the notice Mr. Young gave to Lugoff, following his reinstatement, to the effect that he was on probation until January 31st, 1939, merely conformed to the Strike Settlement Agreement that there would be no discharges for economy reasons prior to that date, and that Palmer's letter discharging Lugoff upon the ground that his services were unsatisfactory certainly conformed to the truth with regard to his decreased production, shown to have been known to the Management at this time even though the detailed analysis of his production was not produced until Lugoff's untrue statements made on the stand in the trial of the case; that the Examiner failed to consider that an employer is generally acting for the best interests of an employee whom he finds necessary to discharge by not furnishing a bill of particulars to him as to the various ways in which his services have been unsatisfactory and which letter would remain as a document against the record of an employee when the latter seeks further employment and, further, that the Management should be praised and not blamed for withholding discharge

of Lugoff during the many months when it was awaiting the long-delayed decision of the Board in Case C-947.

(23) That the Examiner in his findings makes no reference to and ignores the fact that at the time of Lugoff's discharge in March, 1940, he received the sum of Two Hundred (\$200.00) Dollars as accumulated severance pay (P. 243, L. 2 to P. 244, L. 20), and that prior to the trial Lugoff never did offer to return the same to the Management, nor did anyone else do so in his behalf; that when Lugoff accepted the Two Hundred (\$200.00) Dollars as severance pay, which was not payable to him except in the event of his discharge, Lugoff admitted, by such acceptance, the legality and justice of his discharge and if he had seen fit to question either the validity or the fairness of his discharge, that was the time for him to have done so and that by raising no question, either then or later, to the payment of the Two Hundred (\$200.00) Dollars to him there was, in effect, an acceptance by him of an offer by the Management to terminate its relation with him at the time by the payment of that sum of money; and that even after entering into such a quasi-contractual relationship with Respondent, if Lugoff had subsequently discovered that his acceptance of the sum of Two Hundred (\$200.00) Dollars had been brought about by mistake or other error on his part, it was incumbent upon him to offer to return the Two Hundred (\$200.00) Dollars, which he did not do.

(24) That the Examiner completely ignored the uncontroverted and undenied testimony on behalf of the Respondent (P. 598, L. 6 to P. 599, L. 19) that Lugoff had the best territory and the easiest territory within which to work of those engaged in similar work for Respondent for the reason that the territory was relatively compact, more immediately adjacent to the Respondent's plant and contained accounts which could be more readily and easily solicited for advertising in Respondent's columns, and with greater opportunity for success if properly handled and not in such direct competition with the large Los Angeles downtown papers, than other territories extending to appreciably greater distances from Respondent's plant and containing accounts in much greater competition with the large metropolitan newspapers of Los Angeles, and that the low and decreasing production of Leonard Lugoff resulted in spite of the favorable aspects of his territory as contrasted with those of other salesmen whose results were uniformly better and more productive than those of Lugoff.

(25) That the Examiner in reaching his conclusion, as set forth in his Report, that the Respondent by discharging Leonard Lugoff discriminated in regard to the hire and tenure of his employment, thereby discouraging membership in the Guild, and thereby interfered with, restrained and coerced its employees in the rights guaranteed in Section 7 of the Act, must necessarily be understood as having taken the position that an employer cannot discharge

an inefficient and relatively non-productive employee, who seeks to hide behind union membership and union activity as a cloak for such inefficiency and lack of satisfactory production.

(26) That in his various Findings of Fact and the conclusions which he has presumed to base thereon with regard to Leonard Lugoff, the Examiner may be fairly charged with having gone out of his way, after having determined to uphold the discharge of Karl Schlichter, to try to justify his contrary conclusions with regard to Leonard Lugoff; that he has, in doing so, based his Findings and Conclusions not upon the evidence, but on the contrary upon a desire on his part to reach findings and conclusions contrary to the evidence, and has exhibited an attitude of prejudice, bias and partisanship rather than an impartial, judicial attitude, and it is submitted that both his conclusions as well as his findings are false, untrue and erroneous as affecting Leonard Lugoff.

D. The Discharge of Karl Schlichter

The Respondent does not except to the ultimate conclusion of the Examiner in regard to Karl Schlichter except, first, to indicate that it does not agree with certain of the Findings and the doubt expressed by the Examiner, and, second, to point out that if the Examiner had used the same general reasoning with regard to Leonard Lugoff as adopted with regard to Karl Schlichter, the ultimate conclusion of the Examiner would have been the same with

regard to Leonard Lugoff as it was with regard to Karl Schlichter, as, for example, where the Examiner believes the statement of the Management that Schlichter would have been retained had his services been satisfactory and does not believe the same statement made by the Management with regard to Leonard Lugoff.

IV. The Effect of the Unfair Labor Practices upon Commerce

Respondent excepts to the Finding of the Examiner that the activities of the Respondent, either as set forth in Section III B and C of the Report, occurring in connection with the operations of the Respondent described in Section I of the Report, or otherwise, and denies that they have a close, intimate or substantial, or other relation to trade, traffic or commerce among the several states, or that they tend to lead to labor disputes burdening or obstructing commerce or the free flow of commerce, and, on the contrary, Respondent again affirms and alleges that its operations do not have a close, intimate or substantial relation to trade, traffic or commerce among the several states and do not tend to lead to labor disputes burdening or obstructing commerce among the several states or the free flow of commerce; that the Findings of Fact made by the Examiner failed to find the Respondent has its business exclusively in Hollywood, California, that the circulation of its paper does not extend generally over the City of Los Angeles, but is confined largely

to the neighborhood of Hollywood, Beverly Hills, Westwood, San Fernando Valley and the Wilshire District, all within Los Angeles County, California; that Respondent has a daily circulation of approximately twenty-six thousand (26,000); that there are only about one hundred twenty-five (125) copies mailed daily to points outside the State of California and that they are sent generally as a matter of accommodation; that Respondent performs no activities outside the State of California; that its printing work is all done within the State of California; that Respondent is a California corporation with a single place of business, operating exclusively within a very restricted neighborhood within the City of Los Angeles and its environs; that no one connected with the paper is engaged in any work outside the State of California, or in the receiving or transmission of any news or supplies from or to a source outside the State; that said newspaper of Respondent is wholly prepared, edited, printed and published within the State of California, where the Publisher's only office and place of business is located, and that Respondent's business is not interstate commerce within the meaning of the National Labor Relations Act, as set forth in *Western Live Stock v. Bureau of Revenue*, 82 L. Ed. 548 (1938).

V. The Remedy

Respondent excepts to each and every part of the Examiner's Report in this connection.

CONCLUSIONS OF LAW

1. No exception.
2. Respondent excepts to each and every part of the Examiner's Conclusion in this regard.
3. Respondent excepts to each and every part of the Examiner's Conclusion in this regard.
4. Respondent excepts to each and every part of the Examiner's Conclusion in this regard.
5. No exception.

RECOMMENDATIONS

1. Respondent excepts to the recommendations of the Examiner's Report for the reason that it cannot cease and desist from doing something which it has not been engaged in doing, both as to (a) and (b).

2. Respondent excepts to each of the recommendations in paragraphs (a), (b) and (c) upon the following grounds:

(a) That inasmuch as Respondent did not discriminate against Leonard Lugoff, and believes that the evidence in the case indicated that it did not, Respondent should not be called upon either to offer reinstatement or any loss of back pay.

(b) That inasmuch as Respondent has not engaged in the conduct alleged by the Examiner, and

believes that the record of the case so shows, it excepts to a recommendation that the Respondent cease and desist from engaging in any such conduct or that it take the affirmative action recommended by the Examiner.

(c) That inasmuch as the Respondent denies that it has done, or that the record shows that it has done, the things alleged by the Examiner, it excepts to the recommendation of the Examiner in this regard.

Respondent further excepts to the recommendations of the Examiner generally upon the ground that said Board has no jurisdiction, warrant or authority in the premises.

Dated: This 13th day of February, 1941.

THE CITIZEN-NEWS COMPANY

By HARLAN G. PALMER,

President.

WILLIS SARGENT,

Attorney.

United States of America
Before the National Labor Relations Board

Case No. C-1790

In the Matter of

THE CITIZEN-NEWS COMPANY

and

LOS ANGELES NEWSPAPER GUILD

Mr. David Sokol, for the Board. —

Mr. Willis Sargent, of Los Angeles, Calif., and Mr.
Harlan G. Palmer, of Hollywood, Calif., for the
respondent.

Miss Urcel Daniel and Mr. Charles J. Katz, of Los
Angeles, Calif., and Mr. Abraham J. Isserman,
of Newark, N. J., for the Guild.

Mr. William T. Little, of counsel to the Board.

DECISION AND ORDER

Statement of the Case

Upon charges and amended charges duly filed by Los Angeles Newspaper Guild, herein called the Guild, the National Labor Relations Board, herein called the Board, by the Regional Director for the Twenty-first Region (Los Angeles, California), issued its complaint dated October 11, 1940, against The Citizen-News Company, Hollywood, California, herein called the respondent, alleging that the respondent had engaged in and was engaging in unfair

labor practices affecting commerce, within the meaning of Section 8 (1) and (3) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. Copies of the complaint and notice of hearing thereon were duly served upon the respondent and the Guild.

In substance the complaint alleged that the respondent (1) discharged and refused to reinstate Karl Schlichter and Leonard Lugoff because of their union membership and activity; and (2) interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act by (a) making known to them its disapproval of and hostility to the Guild and its opposition to their membership in or assistance to the Guild, (b) making speeches and distributing propaganda calculated to force its employees to withdraw from the Guild and to interfere with their free choice of collective bargaining representatives, (c) spreading rumors that its employees would lose their jobs by joining the Guild, (d) making derogatory statements in disparagement of the Guild, its leaders, and members, (e) disparaging the work of and imposing onerous conditions of work on Guild members solely because of their Guild membership or activity, (f) harassing Guild members solely because of their Guild membership by forcing them to assume menial and undignified tasks to and for which they were unaccustomed and untrained, and (g) refusing to adjust grievances with the Guild as a representative of its employees. In its answer

dated November 9, 1940, the respondent denied that it had engaged in or was engaging in the alleged unfair labor practices or that its activities affected commerce within the meaning of the Act.

Pursuant to notice duly served on the parties, a hearing was held at Los Angeles, California, on November 12, 13, 14, 15, 16, 18, and 19, 1940, before C. W. Whittemore, the Trial Examiner duly designated by the Chief Trial Examiner. The Board and the respondent were represented by counsel and the Guild by an administrative officer. All parties participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. During the course of the hearing the Trial Examiner made several rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

The Guild filed a brief with the Trial Examiner subsequent to the hearing. Thereafter the Trial Examiner filed his Intermediate Report, dated January 13, 1941, copies of which were duly served upon the parties. The Trial Examiner found therein that the respondent had engaged in and was engaging in unfair labor practices, within the meaning of Section 8 (1) and (3) and Section 2 (6) and (7) of the Act and recommended that the respondent cease and desist therefrom, reinstate Leonard Lugoff with back pay, and take certain other action designed to

effectuate the policies of the Act. He further found that the respondent had not discriminated against Karl Schlichter within the meaning of Section 8 (3) of the Act and recommended that the complaint be dismissed as to Schlichter. On February 17 and 27, 1941, the respondent and the Guild filed their respective exceptions to the Intermediate Report. Pursuant to notice duly served upon the respondent and the Guild, a hearing was held before the Board in Washington, D. C., on March 25, 1941, for the purpose of oral argument. The Guild was represented by counsel and participated in the oral argument. The respondent did not appear.

The Board has reviewed the exceptions of the respondent and the Guild to the Intermediate Report, and in so far as they are inconsistent with the findings, conclusions, and order set forth below, finds them to be without merit.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. The business of the respondent

The respondent is a California corporation, having its principal office and place of business in Hollywood, California. It owns and publishes the Hollywood Citizen-News, a daily newspaper, and the Hollywood Advertiser, a weekly free-circulation newspaper. The respondent also engages in commercial printing and operates a retail stationery store.

The respondent sells and distributes more than 26,000 copies of the daily Hollywood Citizen-News throughout the State of California. About .5 per cent of the total copies published are shipped daily outside the State of California to other States of the United States. Both the Associated Press and the United Press maintain teletype machines at the respondent's plant, and approximately 21 per cent of the reading matter in the Hollywood Citizen-News is comprised of news collected outside the State of California and transmitted by these news services through offices in California to the respondent. The Associated Press has the privilege of using items of news and intelligence collected and edited by the respondent's employees and transmitting such news and intelligence through its California office to points outside the State. The respondent also subscribes to numerous syndicated services which supply material originating outside the State of California amounting to approximately 17 per cent of the reading matter in the Hollywood Citizen-News. About 10 per cent of the total advertising revenue of the said newspaper and more than 5 per cent of the respondent's total revenue is derived from advertising originating outside the State of California and appearing in its columns.

In addition to large quantities of other raw materials which it causes to be transported to it from sources outside the State, the respondent uses about 350 tons of newsprint per month, all of which is shipped to it from points outside the State of Cali-

fornia. The purchase of newsprint constitutes 20 per cent of the total expenses of all the respondent's publications.

II. The organization involved

Los Angeles Newspaper Guild, Local 69 of the American Newspaper Guild, is a labor organization affiliated with the Congress of Industrial Organizations. The Guild admits to membership, among employees of the Hollywood Citizen-News, all employees in the editorial, display-advertising, classified-advertising, circulation, and business-administrative departments, with certain exceptions.¹

III. The unfair labor practices

A. Background

On June 27, 1938, in a prior proceeding instituted upon charges filed by the Guild, the Board issued a complaint alleging that the respondent had engaged in unfair labor practices within the meaning of Section 8 (1), (3), and (5) of the Act by discharging five employees, by refusing to bargain collectively with the Guild, and by in other ways interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act. At the time of the hearing in that case a strike was current at the respondent's plant. On

(1) A Guild representative testified that under the constitution employees whose "interests lie with the management as against those of the employees" are not eligible to membership.

July 30, 1938, subsequent to the hearing, the respondent and the Guild entered into a strike settlement agreement which provided for the "immediate restoration to the pay roll" of all the striking employees, including the five discharged employees, upon the following terms:

In the event it is finally determined that the five discharged employees, or any of them, were lawfully discharged, those so affected by such determination shall promptly resign or be subject to discharge.

"Final determination" was thus defined in the agreement:

. . . either the acceptance by both sides of the determination by National Labor Relations Board or the final determination thereof by any court or courts to which any of the parties to said proceedings may take such matter.

On March 26, 1940, the Board issued a Decision and Order² in the above-mentioned case, herein called the earlier case, in which it found that the respondent interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act, but that it had not refused to bargain with the Guild and had not unlawfully discharged the five employees named in the

(2) Matter of The Citizen-News Company, a corporation and Los Angeles Newspaper Guild, 21 N. L. R. B., No. 110.

complaint. In order to remedy the effects of the respondent's interference, restraint, and coercion, the Board ordered the respondent to post notices stating that it would cease and desist from such conduct. The respondent has not complied with this order. Harlan G. Palmer, president of the respondent, stated at the hearing in the instant proceeding, "We have no intention to do so until the Court orders us to do so." Nor has the respondent complied with the Board's order in another case,³ decided September 1, 1938, in which the Board concluded that the respondent had engaged in unfair labor practices in violation of Section 8 (1) and (2) of the Act.

B. Interference, restraint, and coercion

The complaint alleged that the respondent imposed onerous working conditions on and assigned menial tasks to Guild members because of their Guild membership. These charges relate primarily to the assignments given Roger Johnson, Mellier Scott, and Karl Schlichter⁴ following their reinstatement in August 1938. Johnson, Scott, Schlichter, and two other employees were discharged in May 1938.⁵ In August 1938, they were reinstated

(3) Matter of Citizen-News Company, a corporation, and Los Angeles Typographical Union, Local No. 174, 8 N. L. R. B. 997.

(4) The facts concerning the alleged discrimination against Schlichter are set forth in greater detail in Section III D., *infra*.

(5) The discharge of these five employees was alleged to have been discriminatory in the earlier case.

pending the Board's decision. The Board has since dismissed charges that they were discriminatorily discharged and found that their discharge resulted from economy measures which required to some extent the reorganization of the respondent's departments.⁶ Thus, under the strike settlement agreement, the respondent had reinstated five employees whose services it did not require. Reinstatement of these employees resulted in confusion, transfers, and assignments to reportorial work not previously performed by them. No editorial salary was reduced. Roger Johnson, one of the five employees reinstated, testified that when the Guild protested these departmental changes, the grievance committee was told by Palmer that the respondent was "trying their best to fit the returned people into positions which in reality didn't exist and that because they had been required to take these people back it would naturally create some disturbance." It is clear that an unusual situation existed. Accordingly, we find, as did the Trial Examiner, that the record contains insufficient evidence to support a finding that any assignment or transfer of these three employees was motivated by their membership in or activities in behalf of the Guild or was made for the purpose of discouraging membership in the Guild.

Immediately after the editorial employees returned to work, however, they were deprived of their bylines because in the words of Swisher, the

(6) See footnote 2, *supra*.

X city editor, "the ill will created during the strike made it difficult for readers, particularly advertisers, to see the names of various former strikers without becoming alarmed at the name, recalling old feelings from the strike."⁷ We find that the strikers were deprived of their bylines because of their participation in the strike.

X Some time after the strike, according to the uncontradicted testimony of Patricia Killoran, when she sought to explain her failure to cover an assignment, T. Harwood Young, the respondent's business manager, inquired "How could I believe anything after all the things that you have done?" When asked to whom he referred, Young replied, "all of you." Killoran thereupon accused him of referring to the Guild and Young replied, "Well, as a matter of fact, I can't talk about those things because I am not allowed to," and after Killoran replied "Well, I can talk about them," Young added that "his brother had been a very active union man, that he knew more about unions than I would ever know, and he knew about good unions, like the Brotherhood, but that I was just not to be trusted, after the things that we had done."⁸

(7) The record discloses the name of only one advertiser who voiced such objection, which was directed against one employee.

(8) The respondent contends that Killoran's reply to Young's assertion that he could not discuss Guild matters relieves it of responsibility for his action. However, Young's statement that he could

Killoran also testified that at a time when she was posting a notice on the Guild bulletin board, she was told by Swisher that "the Guild was not a reputable organization," and that soon after her participation in the strike, Herbert Sternberg, classified-advertising manager, told her, in substance, "what a fool I was, and what a monkey I made of myself, and how terrible the C. I. O. was and the Guild was and the strikers were." Killoran's testimony as to the remarks of Young, Swisher, and Sternberg was uncontradicted and we find it to be true, as did the Trial Examiner.

We find that by the statements of Young, Swisher, and Sternberg, and by its action in depriving the strikers of their bylines, the respondent has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

C. The discharge of Lugoff

Leonard Lugoff was first employed in November 1931 on the Hollywood Citizen-News, and left in September 1932. Prior to that employment he had worked for both the Hollywood News and the Hollywood Citizen, the papers which merged to form the present Hollywood Citizen-News. After leaving the Hollywood Citizen-News, Lugoff worked for several

not discuss Guild matters came only after he had clearly stated that he could not trust the Guild members because of their past activities and in the light of the preceding conversation, served only to remove any doubt Killoran might possibly have entertained as to the import of his prior statement.

other newspapers. In January 1934, Lugoff was re-employed by the respondent as a circulation solicitor. In August 1934, he was transferred to the position of classified-advertising solicitor, a position he retained until the time of his discharge in March 1940.

Lugoff joined the Guild in October 1937. He did not take part in the strike of 1938 and was expelled from the Guild for that reason. On August 19, 1938, Lugoff was discharged by Tobin, classified-advertising manager, because of "low production" or inadequate sales.⁹

On August 22, 3 days later, Lugoff protested his discharge to Palmer who reinstated him and placed him on probation until January 1, 1939. Lugoff was not discharged in January 1939, nor was he informed that his probation was continued.

In February 1939, Lugoff rejoined the Guild. At that time there was but one other Guild member in his department, Helen Brichoux, who had taken part in the strike. Lugoff became active in attempting to organize the employees in the classified advertising section. In May he openly circulated a petition authorizing the Guild to represent this group

(9) Lugoff claimed that Tobin told him that he was discharged because "they had to cut expenses." Tobin claimed that Lugoff was discharged "because his production had been so low." Since Lugoff's subsequent reinstatement was "probationary," we find, as did the Trial Examiner, that Lugoff's discharge was motivated by "low production" or inefficiency.

of employees. From the testimony of Tobin, who admitted having heard "rumors" of Lugoff's petition, we are convinced and find, as did the Trial Examiner, that by May 1939, the respondent was aware of Lugoff's union activity. In June 1939, accompanied by another salesman, Lugoff asked Young, the respondent's business manager, for the establishment of guaranteed weekly wages. Lugoff's testimony is uncontradicted that, in urging their point, both he and his companion argued that dissatisfaction with wages led to the growth of unions and guilds. Young granted their request. On July 19, and frequently thereafter, Lugoff participated in conferences with management as a Guild committee member. At about the same time (in August) Lugoff engaged in an argument with another employee whom he accused of spreading a rumor that "the management was going to close down the plant if the Guild in its negotiations for a new contract didn't act reasonable." During this argument George Palmer, son of one of the respondent's owners, interposed and declared, according to Lugoff's testimony, that he "knew that (the rumor) was a fact and he was willing to gamble on it." We credit Lugoff's testimony, as did the Trial Examiner. In March 1940, Lugoff circulated another petition among employees in his department. At the time of his discharge Lugoff was the only Guild member among the outside salesmen.

On March 26, 1940, the Board issued its decision in the earlier case, in which it found that the re-

spondent had not discriminated against the employees involved therein. On March 30, Palmer discharged Schlichter and Yeaman, the only employees reinstated under the strike settlement agreement who remained in the respondent's employ. At the same time, he sent Lugoff the following letter of dismissal:

March 30, 1940

Dear Mr. Lugoff:

This notice is to terminate your services with us effective this day. Your production does not justify your employment.

X
In its answer the respondent asserts that Lugoff was discharged because (1) he was reinstated in 1938 "on the same ground as the other employees who were reinstated pursuant to the Strike Settlement Agreement" and that after the Board decision in the earlier case, Lugoff was discharged "pursuant to the agreement under which he had been reinstated"; and (2) "his services continued to be unsatisfactory . . . during the period of his reinstatement."

X
In support of the respondent's contention that Lugoff was discharged "pursuant to the agreement under which he had been reinstated," Palmer testified that when Lugoff protested his discharge in August 1938, he complained that "the strikers had been returned to their jobs, that five people we had discharged for economy were being reinstated until the end of the National Labor Relations Board case

and that he, Lugoff, had not gone on strike and he did not believe that he should receive any less treatment than those who had been on strike." Palmer further testified that "since . . . by virtue of our agreement we were taking other people pending decision, we saw no reason why Mr. Lugoff shouldn't be given equal consideration," and Lugoff was accordingly reinstated. After the Board decision and the discharge of Schlichter and Yeaman, Lugoff was discharged, Palmer stated, "because he had been reinstated because these other people were being reinstated. They were now being let out and Mr. Lugoff was in the same position as to unsatisfactory production as he was and he should also be let out, for that reason he was let go. Our obligation to Mr. Lugoff, to be fair with him on the basis of dealing with the others, had ceased. The others were let off."

Lugoff denied that he had urged his reinstatement on the ground that the respondent had reinstated the strikers and the employees whose discharge had precipitated the strike. Instead, he asserted that 3 weeks before his discharge he had told Tobin that he was contemplating making a loan and inquired if his job was secure. Tobin, Lugoff averred, assured him that it was and he proceeded to make the loan. When he was discharged less than a month later, Lugoff testified, he protested to both Tobin and Palmer against the unfairness of the discharge after he had been induced to go into debt on the respondent's assurance that his job was secure. It was on

the basis of this protest, according to Lugoff, that Palmer ordered his reinstatement.¹⁰

The terms of Lugoff's reinstatement are clearly set forth in the letter notifying him of his reinstatement which provided:

August 22, 1938

To: Mr. Lugoff:

You will be retained in your present position, with final decision to be made on January 1, 1939. The intervening period will be probationary.

T. H. YOUNG,¹¹

Business Manager.

The respondent made no effort to explain why terms of reinstatement opposed to those upon which it

(10) The surrounding circumstances support Lugoff's version of the conference with Palmer. Thus Tobin admitted that shortly before his discharge, Lugoff asked for assurance that his job was secure, stating "that he owed some money or was going to incur a debt." Although Tobin denied giving Lugoff any assurance, it is significant that Lugoff proceeded to make the loan. Furthermore, Lugoff claimed that when he was discharged, he protested to Tobin on the same ground on which he claims that he appealed to Palmer. Supporting this claim is Tobin's twice repeated admission that Lugoff mentioned his indebtedness at the time of his discharge. Although Tobin retracted that admission, we do not credit the retraction. The fact that Lugoff protested his discharge to Tobin on the ground that Tobin was violating his promise lends credence to Lugoff's claim that he protested to Palmer on the same ground.

(11) Young was present during the conference between Palmer and Lugoff, and conferred with Palmer on the advisability of reinstating Lugoff.

asserts Lugoff was reinstated should be set forth in the letter.

In view of all the facts, we find that Lugoff's reinstatement in 1938 was not conditioned on, or connected with, the reinstatement of the other employees or the Board decision in the earlier case, but instead was conditioned solely upon his satisfactory work during the probationary period established by the letter of August 22, 1938. The respondent's claim that Lugoff was discharged "pursuant to the agreement under which he was reinstated" must be rejected.

In explaining the respondent's claim that Lugoff was discharged because his "services continued to be unsatisfactory . . . during the period of his reinstatement," Palmer testified that if his work had been satisfactory, the respondent would have retained Lugoff regardless of the alleged agreement under which he was reinstated. Accordingly, Palmer stated, he ordered Young to investigate Lugoff's work after the Board issued its decision in the earlier case, and upon receiving an unfavorable report, discharged Lugoff.

The respondent's claim that Lugoff's services were unsatisfactory, like its alternative assertion that Lugoff was discharged "pursuant to the agreement under which he was reinstated," is not supported by the record.¹² Lugoff was reinstated in

(12) The respondent to support its claim that Lugoff was inefficient asserted that Lugoff was once discharged by the Hollywood Citizen. There is no

August 1938 on probation. At the conclusion of his probationary period, the respondent did not discharge him or inform him that he was continued on probation. Furthermore, although in the normal course of business it was the duty of Tobin and Young to recommend discharges to Palmer and after obtaining his approval make discharges, such practice was not followed with respect to Lugoff. According to Palmer's own testimony, Lugoff's discharge was occasioned by Palmer's departing from his own customary business practice of leaving personnel matters to subordinates and personally ordering an investigation of Lugoff's work and personally discharging him on the basis thereof. Moreover, at no time during the 19 months following Lugoff's reinstatement did Tobin and Young recommend Lugoff's discharge, although it was their duty to do so if his work was unsatisfactory. Nor was Palmer able to cite a single complaint he had received concerning Lugoff's work during the period of his reinstatement. That Tobin and Young were fully cognizant of the nature of Lugoff's work appears from their own testimony that they studied his record on

evidence that such discharge, which occurred in September 1930, was for inefficiency. Furthermore, the respondent twice hired Lugoff thereafter, including the one occasion when the Hollywood Citizen and the Hollywood News merged and Lugoff, who had been working for the Hollywood News, was employed by the Hollywood Citizen-News despite Palmer's admission that very few of the Hollywood News employees were retained at that time.

three or four occasions during the period of his reinstatement.¹³ Nor could they have thought that their power to recommend Lugoff's discharge was abrogated by Palmer's reinstatement of Lugoff in 1938. Lugoff's reinstatement was expressly made "probationary." Furthermore as noted above, Tobin and Young testified that they held several conferences about Lugoff's work during the period of his reinstatement.

In support of its claim that Lugoff was inefficient, the respondent relies primarily on Lugoff's alleged inadequate sales production. However, only one of the respondent's four salesmen sold more advertising than Lugoff. The respondent claims, nevertheless, that the records of the salesmen are not comparable because the territories they serve furnish different problems and for this reason salesmen in the different territories are paid at different rates. The respondent urges that Lugoff's record shows a more pronounced decrease from its 1937 level than that of the other salesmen. Lugoff testified that the decrease in his production was due primarily to the loss of three accounts, two of which subsequently moved out of his territory. Lugoff's production records, which showed that in April and May of 1938 his sales declined precipitately, support his assertion as well as the respondent's contention of his inefficiency. It is thus apparent that the production records, which admittedly were prepared after Lu-

(13) In January, April, and August 1939 and possibly January 1940.

goff's discharge, are not conclusive. More significant, in our judgment, is the fact that although Tobin and Young were fully aware of the nature of Lugoff's work for a period of 19 months, they did not see fit to recommend his discharge.¹⁴

As further evidence of Lugoff's inefficiency, the respondent points to the fact that Sellers, an inexperienced salesman, who succeeded Lugoff, sold as much advertising as Lugoff.¹⁵ Tobin, himself, depre-

(14) In its exceptions the respondent urges that under an agreement with the Guild, it refrained from making "economy discharges" during the 19 months Lugoff was retained after his original discharge. The term "discharge . . . for economy reasons" is found in the strike settlement agreement and the contract entered into at the time of the strike settlement agreement. The term obviously refers to a dismissal for economy, such as the discharges involved in the earlier case, and does not refer to discharges for inefficiency. Furthermore, it is clear from the record that other employees, both Guild members and non-members, were discharged during the 19 months the respondent retained Lugoff. The agreement to refrain from "economy discharges" accordingly fails to explain the respondent's action in retaining Lugoff for 19 months if he was inefficient.

(15) During his employment prior to the hearing Sellers' average sale of advertising amounted to 620 lines per week, exactly the amount sold by Lugoff during the last 9 months of his employment and slightly less than the amount sold by Lugoff during the corresponding period of the preceding year. Although Sellers' average constitutes an increase over the average maintained by Lugoff during the first 3 months of 1940, two of the respondent's three other outside salesmen showed greater increases in their territories than Sellers showed in Lugoff's during the same period.

cated the need for experience in selling advertising, stating that it "required 90 per cent work and 10 per cent ability." Furthermore, it is to be noted that when Sellers approximated Lugoff's production record, he was given a raise in salary to that previously paid Lugoff, which the respondent claims Lugoff did not earn.

The respondent also asserts that Lugoff was discharged because his commissions failed to cover his guaranteed weekly minimum salary. It is clear from the record, however, that other employees frequently failed to earn their guaranteed salaries. Indeed the salary of Sellers, Lugoff's successor, was raised to \$24 per week, although his commissions amounted to that sum on only three occasions.¹⁶

In addition the respondent asserts that Lugoff slept during working hours, failed to call upon prospective clients when requested to, and played pin ball games during working hours. The evidence introduced plainly discloses that the events in question occurred some time before Lugoff's discharge and were either known to Tobin and Young at the time

(16) In its exceptions the respondent points out that Young testified that he had warned Lugoff that he would have to maintain earnings commensurate with his guaranteed salary. Lugoff denied this. Since the respondent did not require its other employees to earn the guaranteed salary, and since the notice that the respondent posted announcing the terms and conditions of the respondent's guaranteed salary policy made no mention of the necessity of earning the guaranteed salary, we credit Lugoff's denial.

they considered his record and decided that it did not merit discharge, or were not known to them until after Lugoff's discharge in March 1940.

As noted above, in ordering Young to investigate Lugoff's work and in personally discharging Lugoff in 1940, Palmer departed from his long-standing business practice of delegating to subordinates personnel problems involving the discharge of employees. Palmer explained his failure to follow his normal business practice on the ground that he "had been . . . carrying the brunt of the National Labor Relations Board activities . . . and I was the logical one to give the decision . . . when the Board handed down its decision." Palmer's explanation would be applicable had Lugoff been reinstated on the same terms as the employees reinstated under the strike settlement agreement and thereby been impliedly protected against discharge during the pendency of the Board's decision. However, the letter of August 22, 1938, clearly shows, and we have found, that such was not the case. Lugoff was most active in organizing the respondent's unorganized employees and at the very time of his discharge was engaged in circulating a petition to that end. We have found above that the respondent had clearly revealed its hostility toward the Guild. Under such circumstances, Palmer's participation in the field of personnel problems and his selection for discharge of Lugoff, the employee most active in organizing the respondent's unorganized employees, takes on added significance. Under the circumstances we are impelled to the con-

clusion, as was the Trial Examiner, that Lugoff was discharged not because of the reasons advanced by the respondent but because of his activities in behalf of the Guild.

We find that the respondent, by discharging Leonard Lugoff on March 30, 1940, discriminated in regard to his hire and tenure of employment, thereby discouraging membership in the Guild and interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act.

D. The discharge of Karl Schlichter

Pursuant to the strike settlement agreement referred to in Section III A, above, the five discharged employees were restored to the respondent's pay roll. Prior to March 30, 1940, three of these five employees voluntarily left the respondent's employ and on that day Elizabeth Yeaman and Karl Schlichter were notified by letter that their employment was terminated. Yeaman's discharge is not in issue.

Notification to Schlichter read as follows:

This notice is to terminate your services with us effective this day. We consider you incapable of the type of production we desire from a man in your post.

The complaint in the instant case alleges that Schlichter was discharged on March 30, 1940, because of his union activities. The respondent denies this allegation but alleges that Schlichter was dis-

charged (1) in accordance with the agreement of July 30, 1938, and (2) because his services continued to be unsatisfactory to the respondent during the period of his reinstatement.

Palmer testified that he received notification of the Board decision, above referred to, on March 28, and that when no resignation from Schlichter had been received by March 30, he was discharged. Palmer further testified:

. . . my interpretation of the Board's decision was that the Board dismissed the action so far as the question of the regularity of the discharge of these five people was concerned. That was the order, as I read the order, dismissing that action. Therefore, there was no action pending, the Board had held it was legal and dismissed the action, and the day the Board signed the order there was no action then, nothing in existence charging us with the unlawful discharge of the five employees.

Palmer admitted that he did not communicate with the Guild prior to the actual discharge of Schlichter or attempt to find out if the Guild would accept the Board's Decision and Order. At the hearing and in its brief, the Guild contended, in effect, that the respondent acted in bad faith by taking summary action with respect to Schlichter before the Board decision had been accepted by the Guild. We do not consider that the dispute as to whether the respondent's discharge of Schlichter was consistent with or in violation of the terms of the strike settlement

is an issue for our determination. Since we found that the discharge in 1938 was not in violation of the Act, it is clear that the respondent was under no obligation to reinstate Schlichter thereafter.

It is plain, however, from the answer to the Complaint and the testimony of Palmer, that the respondent's position with respect to Schlichter's discharge does not rest solely upon its contention that the Board decision absolved it from obligations incurred under the agreement. Palmer testified:

. . . if Schlichter's services were satisfactory
. . . he would have been kept.

Within a few days after discharging Schlichter, the respondent informed the Guild not only that he had been dismissed under terms of the agreement but that "his services were not satisfactory."

In the earlier case the Board found that "There is no evidence that Schlichter was a particularly active member of the Guild." In 1938, however, following his reemployment, he became treasurer and in 1939, chairman of the Citizen-News unit of the Guild. He participated in a number of grievance meetings with the management.

Upon his return to the respondent's pay roll, Schlichter did not resume his previous duties as promotion manager. He was assigned to assist Sternberg, who was in charge of the national-advertising department. In many respects Schlichter's new work differed from that which he had previously performed. However, the record contains

no convincing evidence that this assignment to new tasks was discriminatory in character. All the new tasks fell within the usual requirements of the department. We, like the Trial Examiner, are not persuaded that any of his assignments were onerous, menial, or imposed upon him because of his union membership.

It is clear from the testimony of both Sternberg and Schlichter that the latter was dissatisfied with his new work. Sternberg's testimony is uncontradicted that, when he suggested to Schlichter that "he get out and call on some accounts and do some selling," Schlichter replied that, "he wasn't interested in selling or learning to sell." Sternberg complained to Business Manager Young, according to his testimony, that he would "like to have a man working with me that was interested in the department and in getting along, going somewhere in there." Sternberg testified that when Schlichter was first assigned to the national department, he advised him, "The thing (the strike) is all over now and there is plenty of work for both of us, lots of it, and if we just forget all about it and get in and dig that he would be able to accomplish quite a lot," but that Schlichter replied, "It wouldn't be of any use because if the Guild loses the case I will be out of here anyway.'" Schlichter denied making this statement. After observing the two witnesses on the stand, the Trial Examiner failed to credit

Schlichter's denial. We find, as did the Trial Examiner, that the conversation occurred substantially as Sternberg testified.

Neither during the strike nor thereafter did the respondent assign anyone to the position of promotion manager. Promotion work has been variously distributed among department heads and for a period in 1939 and early 1940 certain special features were prepared by a free-lance publicist. The Board found in the earlier case that the discharge of Schlichter "whose job was a newly created one and whose work was not immediately productive in a concrete way, was not an unreasonable move for an employer to make when faced with losses and the need for retrenchment." There is no evidence in the record of these proceedings to support a finding that the respondent discriminated against Schlichter by not reopening the position from which the Board found he was justifiably discharged in 1938.

We find, as did the Trial Examiner, that the evidence does not support the allegation in the complaint that Schlichter's discharge in March 1940 was because of his union membership and activity.

IV. The effect of the unfair labor practices upon commerce

We find that the activities of the respondent set forth in Section III B and C, above, occurring in connection with the operations of the respondent

described in Section I, above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. The remedy

Having found that the respondent has engaged in certain unfair labor practices, we shall order that it cease and desist therefrom, and that it take certain affirmative action which we find will effectuate the policies of the Act.

We have found that the respondent discriminatorily deprived the strikers of their bylines after the strike. It is not clear from the record whether or not the respondent has restored their bylines to the strikers. We shall order the respondent to restore their bylines to these employees in the event that it has not already done so. We have found that the respondent discriminatorily discharged Leonard Lugoff. We shall order the respondent to offer him immediate and full reinstatement to his former or a substantial equivalent position, without prejudice to his seniority or other rights and privileges, and to make him whole for any loss of pay suffered as a result of the respondent's discrimination, by paying to him a sum of money equal to the amount he would normally have earned as wages from March 30, 1940, the date of the discrimination against him, to the date of the offer of reinstatement, less

his net earnings during such period¹⁷ and the severance indemnity he received at the time of his discharge.¹⁸

Upon the basis of the foregoing findings of fact and upon the entire record in the case, the Board makes the following:

CONCLUSIONS OF LAW

1. Los Angeles Newspaper Guild is a labor organization within the meaning of Section 2 (5) of the Act.

2. By discriminating in regard to the hire and tenure of employment and terms of employment of Leonard Lugoff, thereby discouraging membership in the Guild, the respondent has engaged in

(17) By "net earnings" is meant earnings less expenses, such as for transportation, room, and board, incurred by an employee in connection with obtaining work and working elsewhere than for the respondent, which would not have been incurred but for his unlawful discharge and the consequent necessity of his seeking employment elsewhere. See *Matter of Crossett Lumber Company and United Brotherhood of Carpenters and Joiners of America, Lumber and Sawmill Workers Union, Local 2590*, 8 N. L. R. B. 440. Monies received for work performed upon Federal, State, county, municipal, or other work-relief projects shall be considered as earnings. See *Republic Steel Corporation v. N. L. R. B.*, 311 U. S. 7.

(18) An employee upon discharge is entitled to severance indemnity, a sum of money which varies in accordance with length of service. Lugoff received such severance indemnity upon his discharge.

and is engaging in unfair labor practices, within the meaning of Section 8 (3) of the Act.

3. By interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (1) of the Act.

4. The aforesaid unfair labor practices are unfair labor practices affecting commerce, within the meaning of Section 2 (6) and (7) of the Act.

5. The respondent has not discriminated in regard to the hire or tenure of employment of Karl Schlichter, within the meaning of Section 8 (3) of the Act.

ORDER

Upon the basis of the foregoing findings of fact and conclusions of law, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, The Citizen-News Company, Hollywood, California, and its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Discouraging membership in Los Angeles Newspaper Guild, or any other labor organization of its employees, by discharging or refusing to reinstate any of its employees, or in any other manner discriminating in regard to their hire and tenure of employment;

(b) In any other manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, ~~to~~ form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purposes of collective bargaining or other mutual aid and protection, as guaranteed in Section 7 of the Act.

2. Take the following affirmative action, which the Board finds will effectuate the policies of the Act:

(a) Offer to Leonard Lugoff immediate and full reinstatement to his former or a substantially equivalent position without prejudice to his seniority and other rights and privileges;

(b) Make whole Leonard Lugoff for any loss of pay he may have suffered by reason of the respondent's discrimination against him, by paying to him a sum of money equal to that which he normally would have earned as wages from the date of his discharge to the date of the offer of reinstatement, less his net earnings during said period and the severance indemnity received at the time of his discharge;

(c) Restore to the strikers the bylines of which they were deprived following the strike of May 1938;

(d) Post immediately in conspicuous places throughout its plant in Hollywood, California, and maintain for a period of sixty (60) days from the date of the posting, notices to its employees stating

(1) that the respondent will not engage in the conduct from which it is ordered to cease and desist in paragraphs 1 (a) and (b) of this Order; (2) that the respondent will take the affirmative action set forth in paragraphs 2 (a), (b), and (c) of this Order; and (3) that the respondent's employees are free to become or remain members of the Los Angeles Newspaper Guild, and that the respondent will not discriminate against any employee because of membership or activity in that organization;

(e) Notify the Regional Director for the Twenty-first Region in writing within ten (10) days from the date of this Order what steps the respondent has taken to comply herewith.

And it is further ordered that the complaint, in so far as it alleges that the respondent engaged in unfair labor practices with respect to the hire and tenure of employment of Karl Schlichter, be, and it hereby is, dismissed.

Signed at Washington, D. C., this 16 day of Jul. 1941. -

(Seal)

HARRY A. MILLIS

Chairman

EDWIN S. SMITH

Member

WM. M. LEISERSON

Member

NATIONAL LABOR RELATIONS BOARD

In the United States Circuit Court of Appeals
for the Ninth Circuit

#9995

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

vs.

THE CITIZEN-NEWS COMPANY,
Respondent.

PETITION FOR ENFORCEMENT OF AN OR-
DER OF THE NATIONAL LABOR RELA-
TIONS BOARD

To the Honorable, the Judges of the United States
Circuit Court of Appeals for the Ninth Cir-
cuit:

The National Labor Relations Board, pursuant to
the National Labor Relations Act (Act of July 5,
1935, 49 Stat. 449, c. 372, 29 U.S.C. §151 et seq.),
respectfully petitions this Court for the enforcement
of its order against respondent, The Citizen-News
Company, Hollywood, California, and its officers,
agents, successors, and assigns. The proceeding re-
sulting in said order is known upon the records of
the Board as "In the Matter of The Citizen-News
Company and Los Angeles Newspaper Guild, Case
No. C-1790."

In support of this petition, the Board respectfully
shows:

(1) Respondent is a California corporation, en-

gaged in business in the State of California, within this judicial circuit, where the unfair labor practices occurred. This Court therefore has jurisdiction of this petition by virtue of Section 10 (e) of the National Labor Relations Act.

(2) Upon all proceedings had in said matter before the Board, as more fully shown by the entire record thereof certified by the Board and filed with this Court herein, to which reference is hereby made, and including, without limitation, a complaint, respondent's answer to complaint, hearing for purpose of taking testimony and receiving other evidence, Intermediate Report, order transferring case to the Board, respondent's exceptions, and oral argument before the Board, the Board, on July 16, 1941, duly stated its findings of fact, conclusions of law, and order directed to respondent, The Citizen-News Company, Hollywood, California, and its officers, agents, successors, and assigns. The aforesaid order provides as follows:

ORDER

Upon the basis of the foregoing findings of fact and conclusions of law, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, The Citizen-News Company, Hollywood, California, and its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Discouraging membership in Los Angeles Newspaper Guild, or any other labor organization of its employees, by discharging or refusing to reinstate any of its employees, or in any other manner discriminating in regard to their hire and tenure of employment;

(b) In any other manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purposes of collective bargaining or other mutual aid and protection, as guaranteed in Section 7 of the Act.

2. Take the following affirmative action, which the Board finds will effectuate the policies of the Act:

(a) Offer to Leonard Lugoff immediate and full reinstatement to his former or a substantially equivalent position without prejudice to his seniority and other rights and privileges;

(b) Make whole Leonard Lugoff for any loss of pay he may have suffered by reason of the respondent's discrimination against him, by payment to him of a sum of money equal to that which he normally would have earned as wages from the date of his discharge to the date of the offer of reinstatement, less his net earnings

during said period and the severance indemnity received at the time of his discharge;

(c) Restore to the strikers the bylines of which they were deprived following the strike of May 1938;

(d) Post immediately in conspicuous places throughout its plant in Hollywood, California, and maintain for a period of sixty (60) days from the date of the posting, notices to its employees stating (1) that the respondent will not engage in the conduct from which it is ordered to cease and desist in paragraphs 1 (a) and (b) of this Order; (2) that the respondent will take the affirmative action set forth in paragraphs 2 (a), (b), and (c) of this Order; and (3) that the respondent's employees are free to before or remain members of the Los Angeles Newspaper Guild, and that the respondent will not discriminate against any employee because of membership or activity in that organization;

(e) Notify the Regional Director for the Twenty-first Region in writing within ten (10) days from the date of this Order what steps the respondent has taken to comply herewith.

(3) On July 18, 1941, the Board's decision and order was served upon respondent by sending a copy thereof postpaid, bearing Government frank, by registered mail, to Willis Sargent, Esquire, respondent's attorney in Los Angeles, California.

(4) Pursuant to Section 10 (e) of the National Labor Relations Act, the Board is certifying and filing with this Court the transcript of the entire record in the proceeding before the Board, including the pleadings, testimony, evidence, findings of fact, conclusions of law and order of the Board.

Wherefore, the Board prays this Honorable Court that it cause notice of the filing of this petition and transcript to be served upon respondent and that this Court take jurisdiction of the proceedings and of the questions determined therein and make and enter upon the pleadings, testimony and evidence, and the proceedings set forth in the transcript and upon the order made thereupon set forth in paragraph (2) hereof, a decree enforcing in whole said order of the Board, and requiring respondent, and its officers, agents, successors, and assigns, to comply therewith.

NATIONAL LABOR RELATIONS
BOARD

By LAURENCE A. KNAPP

Associate General Counsel

Dated at Washington, D. C., this 5th day of December 1941.

District of Columbia—ss.

Laurence A. Knapp, being first duly sworn, states that he is Associate General Counsel of the National Labor Relations Board, petitioner herein, and that he is authorized to and does make this verification in behalf of said Board; that he has read the fore-

going petition and has knowledge of the contents thereof; and that the statements made therein are true to the best of his knowledge, information, and belief.

LAURENCE A. KNAPP

Associate General Counsel

Subscribed and sworn to before me this 5th day of December, 1941.

(Seal)

DANIEL T. GHENT, JR.

Notary Public, District of Columbia

My commission expires August 31, 1944.

[Endorsed]: Filed Dec. 9, 1941. Paul P. O'Brien,
Clerk.

CCA 9 #9995

[ORDER TO SHOW CAUSE]

United States of America—ss.

The President of the United States of America
To The Citizen-News Company, 1545 N. Wilcox
Avenue, Hollywood, California, and Los An-
geles Newspaper Guild, 1031 S. Broadway, Los
Angeles, California, Greeting:

Pursuant to the provisions of Subdivision (e)
of Section 160, U.S.C.A. Title 29 (National Labor
Relations Board Act, Section 10(e)), you and each
of you are hereby notified that on the 9th day of
December, 1941 a petition of the National Labor
Relations Board for enforcement of its order en-

tered on July 16, 1941 in a proceeding known upon the records of the said Board as "In the Matter of The Citizen-News Company and Los Angeles Newspaper Guild, Case No. C-1790," and for entry of a decree by the United States Circuit Court of Appeals for the Ninth Circuit, was filed in the said United States Circuit Court of Appeals for the Ninth Circuit, copy of which said petition is attached hereto.

You are also notified to appear and move upon, answer or plead to said petition within ten days from date of the service hereof, or in default of such action the said Circuit Court of Appeals for the Ninth Circuit will enter such decree as it deems just and proper in the premises.

Witness, the Honorable Harlan Fiske Stone, Chief Justice of the United States, this 9th day of December in the year of our Lord one thousand, nine hundred and forty-one.

(Seal)

PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

RETURN ON SERVICE OF WRIT

United States of America,
Sou. District of Calif.—ss.

I hereby certify and return that I served the annexed order to show Cause on the therein-named Los Angeles Newspaper Guild by handing to and

leaving a true and correct copy thereof with Urcel Daniel its administrative officer personally at Los Angeles in said District on the 10th day of December, 1941.

ROBERT E. CLARK

U. S. Marshal.

By JOHN P. BROOKE

Deputy.

Marshal's Fees	\$4.00
Mileage	\$.30
Expenses	\$
<hr/>	
Total	\$4.30

RETURN ON SERVICE OF WRIT

United States of America,
Sou. District of Calif.—ss.

I hereby certify and return that I served the annexed order to show Cause on the therein-named The Citizen-News Company, a corporation by handing to and leaving a true and correct copy thereof with Mr. Charles D. Thompson its secretary personally at Los Angeles, Calif., in said District on the 10th day of December, 1941.

ROBERT E. CLARK,

U. S. Marshal.

By JOHN P. BROOKE,

Deputy.

[Endorsed]: Filed Dec. 15, 1941. Paul P. O'Brien,
Clerk.

In the United States Circuit Court of Appeals
for the Ninth Circuit

U.S.C.C.A. No. 9995
Board's Case No. C-1790

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

vs.

THE CITIZEN-NEWS COMPANY,
Respondent.

ANSWER OF RESPONDENT, THE CITIZEN-
NEWS COMPANY, TO PETITION FOR
ENFORCEMENT OF AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD

To the Honorable, the Judges of the United States
Circuit Court of Appeals for the Ninth Cir-
cuit:

The Citizen-News Company, Respondent in the
above entitled matter, in accordance with Section
10 (e) of the National Labor Relations Act (49
Stat. 449, Chapter 372, approved July 5th, 1935),
hereby answers the Petition presented to this Hon-
orable Court for the enforcement of a certain Order
of the National Labor Relations Board, hereinafter
referred to as the "Board".

In answer to the said Petition to this Honorable
Court, Respondent respectfully admits, denies and
alleges as follows:

(1) Admits the allegations contained in paragraph (1) of said Petition to the extent that Respondent is a California corporation, engaged in business in the State of California, within this judicial circuit, but denies the allegations that it committed any unfair labor practices or that any unfair labor practices occurred by reason of Respondent or its operations in any manner whatsoever, and denies that this Court has jurisdiction of or over this Petition by virtue of Section 10 (e) of the National Labor Relations Act, or otherwise, for the reason that the activities and operations of Respondent, whether as set forth by the Board in the Order sought to be enforced in this proceeding, or otherwise, do not have a close, intimate or substantial relation to trade, traffic or commerce among the several states, and do not lead, or tend to lead, to labor disputes burdening or obstructing commerce, or the free flow of commerce.

(2) Admits the allegations contained in paragraph (2) of said Petition to the extent that proceedings were had in the said manner before the Board and that on July 16th, 1941, the Board did issue and direct its Order to Respondent in the language set forth in said paragraph (2) of the said Petition, but Respondent denies that there was oral argument by Respondent before the Board, and Respondent further denies that the Board had, or has, jurisdiction over Respondent, either for the purpose of proceeding against Respondent, or for the purpose of issuing or directing its Order to

Respondent, or otherwise, in any manner whatsoever, for the reasons set forth in paragraph (1) above of Respondent's answer to the Board's Petition.

(3) Admits the allegations of paragraph (3) of said Petition.

(4) Admits the allegations contained in paragraph (4) of said Petition, except that Respondent denies the Board had, or has, jurisdiction over Respondent to so proceed under Section 10 (e) of the National Labor Relations Act, or otherwise, as it is seeking to proceed by its Petition to this Court.

(5) In further answering the Board's Petition, Respondent respectfully alleges that the Board's Findings of Fact as to those matters set forth in its said Order, for which it seeks enforcement from this Court, are not supported by the substantial and material evidence introduced and received at the trial; and that its Findings of Fact are inadequate, incomplete and insufficient in that important facts which are conclusively established by substantial and material evidence in the case have been disregarded or ignored by the Board; and that its Conclusions of Law pertaining to the matters contained in its said Order, and the provisions themselves set forth in its said Order, for which it seeks enforcement from this Court, are invalid and void as to Respondent, and based on improper, insufficient and unsupported Findings of Fact, unwarranted by the substantial and material evidence contained in the record in this case.

(6) In further answering the Board's Petition, Respondent respectfully alleges that it set forth in its Exceptions to the Intermediate Report of the Examiner, who presided at the hearing, its objections to certain of his Findings, later adopted by the Board, to certain of his Conclusions of Law, also adopted by the Board, and to certain of his Recommendations, later adopted by the Board, all as portions of the Order which it now seeks to enforce; that the Board erroneously, arbitrarily and in abuse of its discretion, overruled, disregarded and failed to take into consideration certain of Respondent's exceptions to the said Intermediate Report of the Examiner; and that since the said Exceptions are part of the record in this case and are to be printed as part of the transcript of record herein, Respondent hereby incorporates each and every objection contained therein, insofar as applicable to the order of the Board sought to be enforced herein, and to the Findings of Fact and Conclusions of Law upon which the said Order is purported to be based, as fully and completely as if entirely set forth herein.

(7) In further answering the Board's Petition, Respondent respectfully alleges that the said Order of the Board, and each and every part thereof, insofar as directed to compliance by Respondent, is invalid and void for the following reasons:

(a) That paragraphs (1) and (2) of the said Order as drawn, if enforced, would deprive Respondent and its officers, agents, successors or

assigns, of their freedom of speech, and the freedom of press under Amendment 1 to the Constitution of the United States.

(b) That paragraph (2) of the said Order as drawn, if enforced, would deprive Respondent of the protection of Amendment 5 of the Constitution of the United States, in that the National Labor Relations Act, when construed under the requirement of the due process clause of the said Amendment 5 to the Constitution of the United States, does not and could not authorize the Board to order and require Respondent to post any notices admitting, stating or implying that it has heretofore engaged in any unfair labor practices, or that it will cease and desist from engaging in any such unfair labor practices in the future.

Wherefore: Respondent prays that the Petition herein be dismissed, that the Board's Order insofar as directed to Respondent be set aside, and that Respondent be given such other and further relief in the premises as to the Court may seem just and proper.

Dated: This 17th day of December, 1941.

THE CITIZEN-NEWS COMPANY

By HARLAN G. PALMER

President

WILLIS SARGENT

Attorney for Respondent

Suite 622 Title Insurance Bldg.

433 South Spring Street

Los Angeles, California

Telephone: MICHigan 7434

State of California,
County of Los Angeles—ss.

Harlan G. Palmer, being by me first duly sworn,
deposes and says:

That he is the President of The Citizen-News Company, Respondent in the above entitled action; that he has read the foregoing Answer of Respondent, The Citizen-News Company, to Petition for Enforcement of An Order of the National Labor Relations Board, and knows the contents thereof; and that the same is true of his own knowledge, except as to the matters which are therein stated upon his information or belief, and as to those matters that he believes it to be true.

That he makes this verification for and on behalf of The Citizen-News Company, Respondent herein.

HARLAN G. PALMER

Subscribed and sworn to before me this 17th day of December, 1941.

(Seal) EDITH CETTO

Notary Public in and for the County of Los Angeles, State of California.

[Endorsed]: Filed Dec. 19, 1941. Paul P. O'Brien, Clerk.

HARLAN G. PALMER,

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Sokol) Let me inquire, Mr. Palmer, I notice you are taking a pencil and paper to the witness stand. What is the purpose of that?

A. The purpose of that is to make notes of any questions that I wish my counsel to ask me on cross examination.

Q. Isn't your counsel equipped to do that?

A. I am casting no——

Q. Well, I want to expedite my examination and I don't want to prolong it. Your counsel is an able man and certainly he can make the notes.

Mr. Sokol: Can we take a recess for a moment so that that may be arranged?

The Witness: I insist upon jotting down my notes of what I wish to take up with my counsel. [14]

(Testimony of Harlan G. Palmer.)

Q. (By Mr. Sokol) Very well. I am certainly not going to get in your way, Mr. Palmer, but I know that you want to expedite this and so do I.

Will you state your business or occupation?

A. I am publisher of the Hollywood Citizen-News, a daily newspaper, and I am the president of the Citizen-News Company that owns the Hollywood Citizen-News.

Q. The correct name of the company is the Citizen-News Company? A. Correct.

Q. Is there a hyphen between "Citizen" and "News"? A. There is.

Q. In what does that company engage?

A. Its activities consist of publishing the Hollywood Citizen-News daily newspaper, the Hollywood Advertiser, a weekly free circulation newspaper, doing commercial printing, press work on some publications, and composition and press work on some other publications, doing commercial job printing and operating a retail stationery store.

Q. All of those operations are in the town of Hollywood, California?

A. In the city of Los Angeles, and in that section of Los Angeles known as Hollywood.

Q. Yes. Now, with respect to the advertiser, that is just an advertising medium that is inserted in the Citizen-News? [15]

A. It is a free circulation publication. The advertiser is distributed to all the homes in a given

(Testimony of Harlan G. Palmer.)

area and the sections pertaining to a given area are enclosed with the Citizen-News on Thursday night.

Q. As I understand it you stated the Citizen-News was a daily paper. It is daily except Sunday; is that right?

A. A daily paper except Sunday.

Q. Does the advertiser have any wire service or syndicates?

A. No, sir.

Q. Now, with respect to the other publications on which you do composition and press work; what are they?

A. The Hollywood Shopping News. We do all the work in publishing the Hollywood Shopping News, it being owned by a separate corporation which the Citizen-News Company is one of the stockholders. The manager of the Shopping News has his desk with the Citizen-News and all operations are conducted from that place.

The Southwest Wave publication sends over its mats and we do the stereotyping from the mats and all the press work.

Q. Let me make this a little briefer; Let me ask you, during the year 1939 and 1940, did you do any work on publications which have national circulation to your knowledge?

A. 1939 to 1940?

Q. Yes, to the present time, in other words.

A. Well, we formerly did work on the Hollywood Daily Variety. [16]

(Testimony of Harlan G. Palmer.)

Q. What kind of a publication is that?

A. That is a magazine type of publication on a magazine size page, printed primarily for those interested in the motion picture industry, carrying mainly motion picture news.

Q. In other words——

A. I have forgotten when we ceased publishing that publication, I think possibly a year ago.

Q. That is a trade publication for the film industry, the *Variety*?

A. Yes, a publication for those interested in motion picture news primarily.

Q. And so far as you know it circulates in other states other than California? A. Yes.

Mr. Sokol: Now, may we go off the record?

Trial Examiner Whittemore: Yes. Off the record.
(Discussion off the record.)

Trial Examiner Whittemore: On the record.

Mr. Sokol: I understand, Mr. Examiner, that respondent admits the allegations of paragraph 2 of the complaint and paragraph 3 with the explanation which is about to be made by Mr. Sargent, its counsel, modifying in substance the allegations with respect to the receipt and transmittal of news and intelligence. Will you state that for the record?

Mr. Sargent: Subject to any other variations contained in [17] their answer, if there be any, the allegations in paragraph 2 of the complaint are correct, except that where Associated Press and

(Testimony of Harlan G. Palmer.)

United Press News from without the state come to respondent's plant, they do so through California offices of the Associated Press and United Press, and are transmitted by those California offices to respondent's plant. Likewise, when news or intelligence is gathered by the staff of respondent, it then becomes available in the plant to the Associated Press and United Press, which transmits such of the news and intelligence as it may so desire to its offices within California and thereafter and only thereafter may such news or intelligence be transmitted outside the state.

There were several other minor matters in paragraphs 2 and 3 and that is why I didn't think my stipulation as sweeping as you asked me, Mr. Sokol, but I would be glad to clear up anything where we have any doubt.

Mr. Sokol: I think that is clear.

With respect to the percentages stated in paragraph 2, those are substantially correct?

Mr. Sargent: Substantially correct.

Mr. Sokol: And with respect to paragraph 3?

Mr. Sargent: I believe you should ask that question of the witness.

Q. (By Mr. Sokol) Is that right?

A. Yes. [18]

Mr. Sokol: With respect to paragraph 3 I think you want to make a qualification of that stipulation. In other words, I allege here that all of the newsprint is shipped to respondent's plant from British

(Testimony of Harlan G. Palmer.)

Columbia, Canada. I think you have some modification of that.

Mr. Sargent: Well, again, as stated in the answer, a portion of the newsprint does come, I understand, from British Columbia, but the statement that all of it is shipped to respondent's plant from British Columbia, Canada is incorrect.

There is no allegation in the answer as to where it comes from, so that respondent is not trying to prove any statement to the contrary, except to make the pleadings accurate in denying that all of the newsprint comes from British Columbia.

Q. (By Mr. Sokol) Does all of it come from outside the state of California? A. Yes.

Mr. Sargent: All of it does come from outside the State of California.

Mr. Sokol: Is that a stipulation?

Mr. Sargent: Yes, we will so stipulate.

Mr. Sokol: I will accept that.

Mr. Sargent: Have you covered all the questions you wanted to?

Mr. Sokol: Yes.

Trial Examiner Whittemore: May I simply inquire at this [19] time: Does respondent concede that it is engaged in interstate commerce?

Mr. Sargent: I should say not. We have fought that question out on several occasions before and we deny emphatically that we are engaged in interstate commerce or that the activities of the respond-

(Testimony of Harlan G. Palmer.)

ent have a close and intimate relationship with interstate commerce, or that a labor dispute in the plant would have a bearing upon interstate commerce, and all the other clauses which might be necessary to make the denial generally, specific, and otherwise. [20]

The Witness: The contract made with the Guild this year was for the year July 1st, 1940 to July 1st, 1941 and it was the third contract made with the Guild. The second contract then would have been in 1939; and the first contract would have been in 1938. And negotiations on the first contract began in the latter part of 1937. [26]

A. Well, I know that to our department heads I have repeatedly stated that our employees were entitled to join or belong to a union of their own choosing.

Q. When did you first say that? [31]

Q. Now, my original question was this: Have you ever talked to any employees exclusive of the supervisory employees, I am referring specifically to employees who are not part of the management, have you ever talked to them about union activities?

A. I told you that I told our composing room men they had the right to join or not to join a union of their own. [34]

A. There were at least 25 of our employees who were members of the Guild who did not join the

(Testimony of Harlan G. Palmer.)

strike, whose cards were torn up because they did not join the strike, not having had a privilege to vote on the strike, and several of those—I can't name anyone specifically—several of those said that they had been members of the union and that their cards had been torn up. [35]

Q. (By Mr. Sokol) I now ask you concerning Mr. Lugoff's discharge, in your Answer you set up that in August, 1938, when these employees had gone out on strike and were returning, in substance that Mr. Lugoff was discharged about that time?

A. Yes, that is right.

Q. Now, did you personally discharge him at that time?

A. No. The discharge was with my approval.

[71]

Q. What?

A. He was discharged with my approval, however.

Q. I see. A. Yes.

Q. Who discharged him?

A. I don't distinctly remember but presumably Mr. Tobin. It might have been Mr. Young. It possibly was Mr. Young. Mr. Tobin might have been on vacation then but I haven't a recollection of who did the actual discharging.

Q. Did you make any record for the reason of his discharge in August, 1938?

A. I don't know. There is a record card, it speaks for itself.

(Testimony of Harlan G. Palmer.)

Mr. Sokol: Let's have that marked Board's Exhibit 5 for identification.

(Thereupon, the document referred to was marked as Board's Exhibit No. 5 for identification.)

Q. (By Mr. Sokol) Do you see any notation on the card on his employment record as the reason for his discharge in August, 1938?

A. Yes. The reason was low production. I don't know when that was entered.

Q. Show me any such notation as to August.

A. Low production.

Q. As to August, 1938? [72]

A. I don't know when it was made.

Q. Don't you see the date March 30, 1940?

A. I see that on the higher line, the date of his final discharge.

Q. Yes. A. Yes.

Q. But doesn't that remark "low production" apply to that particular date, or does it?

A. It applies to both dates, yes.

Q. You say it applies to both dates?

A. I know it does. That was why he was discharged both times, for low production.

Q. Will you show me a notation on here about low production being the reason for his discharge in August, '38?

A. No, but he knows he was discharged and he knows that he was reinstated.

(Testimony of Harlan G. Palmer.)

Q. My question was simply whether this document, Board's 5 for identification, reflects any reason for a discharge in August, 1938?

A. The document speaks for itself, Mr. Sokol.

Q. Thank you. Now, at that time did you confer with Mr. Tobin or Mr. Young concerning Mr. Lugoff in August, 1938?

A. Yes, I conferred with Mr. Young with reference to Mr. Lugoff because of Mr. Lugoff's appeal for reinstatement.

Q. I mean prior to that time, about the discharge did you [73] confer with anyone? You said that his discharge in 1938 had your approval?

A. Yes, because of low production.

Q. Did you discuss it with anyone?

A. Yes, I discussed it with someone.

Q. With whom did you discuss it?

A. Either Mr. Young or Mr. Tobin and perhaps with both, I don't know.

Q. Do you remember what Mr. Lugoff's production at that time was?

A. Well, I have got the figures on the production.

Q. May I have those figures?

A. Yes. The figures for 1938, 1939 and to and including the week of March 28, 1940.

Q. Did you personally get out these records?

A. No.

Q. Who got them up?

(Testimony of Harlan G. Palmer.)

A. They came to me from Mr. Tobin, the classified manager.

Q. Well, you don't have the lineage production here?

A. No, that is his earnings, the amount he earned for his production.

Q. Well, I requested the amount of lineage for these employees.

A. If we have got a record I will be glad to bring it.

Mr. Sokol: May this be marked Board's Exhibit 6A, 6B [74] and 6C.

(Thereupon, the documents referred to were marked as Board's Exhibits 6A, 6B and 6C for identification.)

Trial Examiner Whittemore: Off the record.

(Discussion off the record.)

Trial Examiner Whittemore: On the record.

Q. (By Mr. Sokol) Now, you recall that you discussed his discharge in August, 1938, with someone? A. Yes.

Q. You don't recall what was said?

A. Well, excepting that his production was low.

Q. At that time the strikers were returning to the plant? A. Yes, sir.

Q. Now also a number of people whom you had discharged, Guild people, whom you had discharged previous to the strike were returning to their work, their jobs? A. Yes.

(Testimony of Harlan G. Palmer.)

Q. How many people? A. Five.

Q. And the reason for your discharge of those people was what? Of those five?

A. It was that business was off compared to a year ago and that we could reduce our staff. We were warranted in reducing our staff.

Q. Did you ever examine your financial records to see whether [75] or not the business was off?

A. Oh, I know it was off, yes, sir.

Q. You did? A. Yes.

Q. That is the reason I want those financial records.

A. Well, the financial statement will not show that. I can show you the lineage of figures.

Q. But the income and expenditures will?

A. Yes.

Mr. Sargent: Your Honor, this is precisely the issue upon which the former case was tried and so far as the Board is concerned it is *res adjudicata*.

Q. (By Mr. Sokol) Let me ask this question: Did you ever submit your financial records at the previous hearing?

A. Yes, we gave the figures as to profit and loss on a comparative basis.

Q. But did you produce your books at the hearing? A. No.

Trial Examiner Whittemore: It seems to me we are getting into the other case.

Mr. Sokol: I am not getting into that.

(Testimony of Harlan G. Palmer.)

Trial Examiner Whittemore: Let's not bring it in at this point.

Q. (By Mr. Sokol) So you reinstated Lugoff even though his production was off, isn't that right, in August, 1939? [76]

A. After his plea, and I should like to state the grounds.

Q. When did his plea occur? What day?

A. I couldn't tell you.

Q. Would the date August 22, 1938, refresh your recollection? A. No.

Q. It was in August, 1938?

A. Well, it was after the strike.

Q. Where did this conversation take place?

A. Mr. Lugoff's conversation with me took place in my office.

Q. Who was present?

A. I think Mr. Lugoff and me.

Q. Did you swear to your answer in this case?

A. Yes.

Q. In other words, you took an oath that the statement with regard to your conversation with Lugoff as stated in the Answer was true, is that right? A. Yes, in substance.

Q. Who opened that conversation?

A. Well, the conversation was opened by him. It was at his request that he be reinstated.

Q. What did he say?

A. Well, in substance, I can give it to you.

(Testimony of Harlan G. Palmer.)

Q. I want you to be accurate about this conversation. A. I can't give it to you. [77]

Q. I may advise you, Mr. Palmer, that I have some instruments concerning this transaction and that is why I would like to have you be accurate about it.

A. I cannot be accurate. I won't attempt to be accurate.

Q. Now, you say Lugoff started the conversation, anyway? A. Yes, he did.

Q. What did he say?

A. Well, that the strikers had been returned to their jobs, that five people we had discharged for economy were being reinstated until the end of the National Labor Relations Board case and that he, Lugoff, had not gone out on strike and he did not believe that he should receive any less treatment than those who had been on strike.

Q. Continue. A. That in substance was it.

Q. Was that the whole conversation?

A. Well, that is the substance of it. The appeal was made.

Q. Now, what did you say?

A. I don't know whether I said to him, or whether I first discussed it with Mr. Young, but anyway I reached the conclusion——

Q. Do you know whether you discussed that with Mr. Lugoff at that point?

A. No, I don't.

(Testimony of Harlan G. Palmer.)

Q. Did you or didn't you? [78]

A. I don't know.

Q. Your answer is you are not positive that you discussed at that point how and under what circumstances Mr. Lugoff was to be reinstated, isn't that right? A. That is right.

Q. Now, what was the next that occurred? You discussed it with Mr. Young?

A. With Mr. Young and possibly with Mr. Tobin, I can't recall.

Q. Are you referring to any notes about this transaction? A. No.

Q. Did you make any notes on that occasion?

A. No.

Q. Now, you have discussed it with either Mr. Tobin or Mr. Young?

A. Perhaps both, I don't know.

Q. What did you discuss with them?

A. Mr. Lugoff's appeal.

Q. What did you say about it?

A. I said that I thought it was—that there was a great deal of merit in his appeal.

Q. All right.

A. And that since we were under obligation, by virtue of our agreement we were taking other people pending decision, we saw no reason why Mr. Lugoff shouldn't be given equal consider- [79] ation.

Q. Did you see Mr. Lugoff after that?

A. Well——

(Testimony of Harlan G. Palmer.)

Q. At that time did you reinstate him personally? A. No, I don't think I did.

Q. Who reinstated him?

A. Well, I can't say whether Mr. Tobin did or Mr. Young.

Q. Did you tell Mr. Young what to say to him?

A. No.

Q. You didn't? A. No.

Q. What did you tell Mr. Young to tell Mr. Lugoff, that he was reinstated under the precise conditions that these five people were reinstated pursuant to that strike settlement agreement?

A. No, I don't recall telling Mr. Young to tell him that precisely. That was the basis of Mr. Lugoff's appeal.

Q. Did you tell Mr. Young when Mr. Lugoff's employment was determined? A. No, no.

Q. Did you ever tell Mr. Lugoff that he would be reinstated under the precise conditions that the five employees named in the strike settlement agreement were reinstated?

A. No, I personally didn't tell him that.

Q. Did you determine to—when did you discharge Mr. Lugoff [80] after that?

A. I say I am not sure. I personally didn't discharge him.

Q. The last time?

A. Oh, the last time. His notice went out the same time as Mr. Schlichter's, I am sure.

(Testimony of Harlan G. Palmer.)

Q. Why? A. Why?

Q. Yes.

A. Because he had been reinstated because these other people were being reinstated. They now were being let out and Mr. Lugoff was in the same position as to unsatisfactory production as he was and he should also be let out, for that reason he was let go. Our obligations to Mr. Lugoff, to be fair with him on the basis of dealing with the others, had ceased. The others were being let off.

Q. What obligations did you have to him?

A. Only the obligation that was represented by his appeal, that since those who had been on strike were being taken back he, Mr. Lugoff, should be reinstated.

Q. You were forced by a strike settlement agreement to take these five employees back?

A. Yes, that is right.

Q. You didn't want to take them back?

A. No, that is right. [81]

Q. Now, why did you take Mr. Lugoff back in August, 1938?

A. Because if we could take back the others under force there was no reason why we shouldn't take Mr. Lugoff back under a gentlemanly appeal.

Q. Now, under the same reasoning, why didn't you extend your leniency to that particular date in March, 1940, when you discharged him?

A. The reason then has ceased to exist.

(Testimony of Harlan G. Palmer.)

Q. Now, let me ask you this: When Mr. Lugoff came out to see you with his appeal in August, 1938, did he say anything about his being a Guild man, a member of the Guild?

A. As I told you before I have no recollection of Mr. Lugoff ever telling me that he was a Guild member.

Q. Then would you deny that he told you?

A. No, I wouldn't deny it, no, sir. No, I would not.

Q. Would you deny that you asked him whether he was a Guild member?

A. I am very positive that I didn't.

Q. Why are you positive?

A. I have no recollection of asking anyone if he was a Guild member, no recollection whatsoever.

Q. Did you know that Mr. Lugoff was a member of the Guild in March, 1940?

A. I had reason to believe that Mr. Lugoff was a member of the Guild in 1940. [82]

Q. How did you come to that conclusion?

A. Because I had seen Mr. Lugoff attending a Guild meeting.

Q. Now, you then discharged Mr. Lugoff in March, 1940. Do you have the letter of discharge you sent him? You sent him a registered letter?

A. I think so. I think that is the letter that went out.

Q. Was it the same time you dispatched the

(Testimony of Harlan G. Palmer.)

letter to Mr. Schlichter that you dispatched the letter to Mr. Lugoff?

A. Yes, I think it was. As I say I am not sure that that is the copy but I believe it is.

Mr. Sokol: Will you mark this for identification as Board's Exhibit 7?

(Thereupon, the document referred to was marked as Board's Exhibit No. 7 for identification.)

Q. (By Mr. Sokol) You have just handed me Board's 7 for identification? A. Yes.

Q. Now, you sent this by registered mail that afternoon or the evening of March 30th, is that right, on Saturday, A. Presumably.

Mr. Sokol: I will offer that in evidence.

Mr. Sargent: May I see it just for a second?

Mr. Sokol: Yes.

Q. (By Mr. Sokol) Both of these letters to Schlichter and Lugoff of March 30, 1940, were signed by yourself as pub- [83] lisher?

A. Well, that copy would appear that way. My recollection was until I discovered that "publisher" that Mr. Young had signed them but I would rather leave it to Mr. Lugoff and Mr. Schlichter as to whether or not—if they *way* my signature was on I will accept their word.

Mr. Sokol: I will offer this as Board's Exhibit 7 into evidence.

Mr. Sargent: I have no objection.

(Testimony of Harlan G. Palmer.)

Trial Examiner Whittemore: It will be received.

(Thereupon, the document heretofore marked for identification as Board's Exhibit No. 7 was received in evidence.)

BOARD EXHIBIT 7

March 30, 1940

Mr. Leonard S. Lugoff,
1149 N. Genessee,
Hollywood, California.

Dear Mr. Lugoff:

This notice is to terminate your services with us effective this day. Your production does not justify your employment.

Yours very truly,

Publisher.

HGP/T

Q. (By Mr. Sokol) Did you confer with anyone concerning Mr. Lugoff's discharge on this occasion? A. Yes.

Q. With whom did you confer?

A. Well, I believe only with Mr. Young, but I believe that Mr. Young conferred with Mr. Tobin before. I am not certain about that.

Q. Did you analyze Mr. Lugoff's production?

A. Yes.

Q. There are slack periods in the sale of classified advertising, aren't there? A. Yes. [84]

(Testimony of Harlan G. Palmer.)

Q. What are those slack periods?

A. I couldn't blame them.

Q. You are not an expert in that field, is that right?

A. I am not an expert man in classified, no, but I know there are ups and downs.

Q. Now, I am going to ask you a question and then I think in replying you should have before Board's 6A, 6B and 6C for identification. My question is this: The lowest point of Mr. Lugoff's production was in the week of August,—

A. You are looking now at the record for 1938.

Q. In August, 1938. That was the lowest point of production?

A. That is right for '38.

Q. I mean the lowest point since 1938.

A. Yes, it appears to be from these figures.

Q. Now, since August, 1938, according to these records, his next lowest point of production was somewhere around \$18 in December, 1939?

A. December, 1939, February, 1940, and March 1940 he had production as low as \$18 and some odd cents.

Q. He increased his production after that, didn't he? He increased his production in March just prior to his discharge?

A. The week to which you refer was December 28th. His earnings then were \$18.69. The week January 1st his earnings were \$18.87, January 18th, \$18.64, February 29th, \$18.84. [85]

(Testimony of Harlan G. Palmer.)

Q. Pardon me, I will withdraw the question because—— A. March 14th, \$18.52.

Q. Well, he was increasing his production towards the end?

A. No, I couldn't say that. That is what I was just reading.

Q. Well, look here (indicating).

A. Well, the week of March 14th his earnings were \$18.52, and he was paid \$24.00. Now, you are comparing that with the week of December 29th when his earnings were \$18.69. Now, I couldn't tell you whether they were increasing or not on that.

Q. On the next week of March 24th, his earnings were \$20.10? A. \$20.10.

Q. And the next week, March the 28th, \$22.30, is that right? A Yes.

Q. Do you know what commission Mr. Lugoff was getting on his lineage?

A. No, he was working against the \$24.00 a week guarantee.

Q. Now, did you know that other people doing the same type of work showed earnings higher than Lugoff because they were getting a higher rate of commission?

A. No, I don't know, the classified man arranges that.

Q. Now, these earnings, what do they reflect?

(Testimony of Harlan G. Palmer.)

Doesn't that reflect so much per line which the man gets?

A. That is right. [86]

Q. And it is on the basis of commission per line that these earnings are calculated?

A. That is right.

Q. Did you know when you finally discharged Mr. Schlichter that he had been longer in your employ than other employees who were doing the same type of work, who were getting a larger commission?

A. No, that didn't make any particular difference to me.

Q. It didn't?

A. No. That meant Mr. Lugoff got more severance, say, with his length of time he got more severance time.

Q. You had a general guarantee of \$24.00 a week, isn't that right?

A. That was Mr. Lugoff's guarantee.

Q. That was general in his department?

A. It applied to some others besides Mr. Lugoff but I don't know how many others.

Q. Did you make any investigation to ascertain what income Mr. Lugoff was bringing into the company despite what he earned on the paper?

A. What do you mean?

Q. Here, let me explain it. I have never sold advertising but when a solicitor goes out and sells an ad—Mr. Lugoff was a classified solicitor, wasn't he?

A. Yes. [87]

(Testimony of Harlan G. Palmer.)

Q. When he goes out and sells an ad, there is a certain revenue which comes to the paper from that ad? A. That is right.

Q. Deducted from that revenue is the overhead, the commission, which goes to the solicitor?

A. That is right.

Q. And the solicitor is making more revenue than another solicitor on the paper but is getting less commission, that would reflect a greater revenue for the paper, wouldn't it?

A. Yes, but it wouldn't reflect more to Mr. Lugoff's credit necessarily.

Q. Did you investigate what revenue he was producing for the paper? A. No, but——

Q. Did you consider it important to find out how much money you were making on Mr. Lugoff's services?

A. No, as long as I believed that somebody else could do better than Lugoff.

Q. Who was the person you believed could do better?

A. I thought most anybody could.

Q. Whom did you have in mind?

A. I didn't have anybody in mind. I thought anybody could who would work hard. Mr. Lugoff in my opinion is lazy and I thought that most anybody who was enterprising could produce more than he. [88]

Q. Had you ever seen Mr. Lugoff on his territory?

(Testimony of Harlan G. Palmer.)

A. Yes, I have seen him sleeping in his car parked along the street there in the afternoon.

Q. When was that?

A. Well, I couldn't tell you when but——

Q. What year?

A. Sometime before his discharge.

Q. How long before his discharge?

A. Oh, I don't know. It may have been three months or two months, any time.

Q. Any time?

A. Yes, any time before his discharge.

Q. A year, six years or ten years?

A. As a matter of fact, I think Mr. Lugoff before his discharge was regularly loafing in the afternoon.

Q. Sleeping there in his car?

A. I don't know whether he was sleeping or not.

Q. How do you know that? A. What?

Q. How do you know that he was loafing in the afternoon?

A. Well, because I have seen him sitting in his car one time when I was sure he was sleeping.

Q. Where did this occur? Where did you see him sleeping in his car?

A. On Wilcox Avenue. [89]

Q. Where on Wilcox Avenue?

A. Well, I couldn't tell you, some place between Selma and Sunset.

Q. What time of day was it?

(Testimony of Harlan G. Palmer.)

A. Well, I couldn't tell you that. I would say probably 1:30 or 2:00 o'clock.

Q. What part of the year?

A. I couldn't tell you that.

Q. Summer or winter? We get a little lazy out here in the summer.

A. I couldn't tell you that.

Q. Was it winter, summer, spring or when was it?

A. I couldn't tell you.

Q. How many times did you see him in that position?

A. Well, I never saw him excepting once when I thought he was asleep, but I have seen him in his car a good many afternoons.

Q. You saw him in his car. How far away were you when you saw him in his car when you thought he was sleeping?

A. That time I walked by.

Q. You walked by?

A. Yes, on the sidewalk.

Q. Was he on your side in the driver's seat or in the other compartment?

A. He was in the front seat. [90]

Q. Did you wake him up?

A. No.

Q. What was he doing at the time?

A. Well, I am sure he was sleeping.

Q. Why do you say that? His eyes were closed or something like that?

A. Yes, they appeared to be.

Q. How long did you stand there?

(Testimony of Harlan G. Palmer.)

A. I didn't stand there; I just walked by.

Q. You just walked by?

A. Yes, that is right.

Q. At your normal pace? A. Yes.

Q. Didn't you stop to observe him?

A. No.

Q. Did you complain to anyone about that?

A. I didn't have to complain because other——

Q. I am asking you: Did you?

A. No. Others had told me——

Q. Had you ever complained about Mr. Lugoff?

A. Complained to whom?

Q. To anyone?

A. No. I didn't have to. Others would complain to me.

Q. Who complained to you?

A. Mr. Tobin, Mr. Young. [91]

Q. When did Mr. Tobin complain to you?

A. Oh, I can't tell you a specific time.

Q. What year?

A. Well, certainly before August, 1938.

Q. All right. What was his complaint at that time?

A. Well, that Lugoff wasn't producing what he thought he was capable of producing if he worked.

Q. How many times did Mr. Tobin complain to you prior to August of 1938?

A. Oh, I don't know, a couple of times, anyway.

(Testimony of Harlan G. Palmer.)

Q. Would you place it more than a couple of times?

A. No, I can't state any definite number of times.

Q. Do you recall any other occasions of receiving any complaints about Mr. Lugoff?

A. No, not specifically.

Q. Did you call Mr. Lugoff in and talk to him on this occasion? A. No.

Q. On the final discharge? A. No, no.

Q. Well, he had been one of your oldest employees, hadn't he?

A. Well, he had been there whatever years the card shows, I don't know.

Q. Well, so far as you knew, he was one of your oldest men? [92]

A. I don't think he was one of the oldest nor among the oldest.

Q. I mean he had been there for more than six years? He had been with the old paper, The News, you knew that, didn't you?

A. No, I didn't know that.

Q. Well, you took him over from the old organization?

A. If he says so, we did. I haven't a specific recollection.

Q. Well, you always had a fatherly attitude toward him, didn't you?

A. No, I don't think I had a fatherly attitude.

(Testimony of Harlan G. Palmer.)

I welcomed anybody to come in and talk with me but I hoped it wasn't fatherly.

Q. Anyway you just sent him a registered letter too? A. Yes.

Q. Why didn't you say in your registered letter to him that he was being discharged because the other people were discharged in accordance with the Board's decision?

A. Because I knew he would find that out in the course of time.

Mr. Sokol: Well, it is after 12:00.

Trial Examiner Whittemore: You have finished with this line of questioning?

Mr. Sokol: Yes.

Trial Examiner Whittemore: And it is a good point to [93] recess?

Mr. Sokol: Yes.

Trial Examiner Whittemore: Then we will recess until 1:30.

(Whereupon, at 12:00 o'clock a. m., a recess was taken until 1:30 o'clock p. m.) [94]

After Recess

(Whereupon, at 1:30 o'clock p. m., the hearing resumed, pursuant to recess.)

Trial Examiner Whittemore: The hearing will come to order. Proceed.

HARLAN G. PALMER,

a witness called by and on behalf of the National Labor Relations Board having been previously duly sworn, was examined and testified further as follows:

Direct Examination

(Continued)

Q. (By Mr. Sokol) Mr. Palmer, who is in charge of hiring and firing at the plant?

A. Well, I would say I was in charge of the firing.

Q. Have you always had that particular position?

A. Of approving any department head's conclusion that a person should be fired, why, I have always asked for the right to approve it.

Q. Is it true that up to the time of these union activities that so far as you know no one had ever been discharged at the plant?

A. Why, I would have to go over the records.

Q. At this time so far as you know from your memory, you know of no one who was discharged prior to these union activities, is that correct?

A. I am sure persons were discharged.

Q. What? [95]

A. I am sure persons were discharged.

A. Can you name any one of them?

A. No.

Q. I wish you would check that from your rec-

(Testimony of Harlan G. Palmer.)

ord because that is my understanding and I would like to have you tell us whether or not that is so.

A. Up to 1937 the Citizen News was growing and there would be less incentive—less opportunity to lay off than from there on.

Q. Now, can you explain the method of hiring and discharge? Do the people who want employment come directly to the department head?

A. As a rule, or they are sent to the department head. General employment applications are filed in my office, in the outer office, general applications.

Q. Do you pass on them personally?

A. Well, most of them are filed when we have no openings whatsoever and they are merely filed for reference in the event an opening develops. If an opening develops the department head would probably come to our office to look over applications, if he didn't have some one before him.

Q. What I am trying to ascertain is whether in the discharge of Mr. Schlichter and Mr. Lugoff, yours was a secondary interest? I mean the man who was supposed to handle that particular job was their immediate department head; is that [96] correct?

A. Well, no. Mine was the primary interest.

Q. Why?

A. Well, because I had been the one who had been the leader, or at least carrying the brunt of the National Labor Relations Board activities as I

(Testimony of Harlan G. Palmer.)

related, and I was the logical one to give the decision as to whether or not, when the Board handed down its decision, we were justified in laying off the two men. It was my decision to make and I did.

Q. There is one point that comes to me: As you recall you stated that Tobin, either Tobin or Young discharged Lugoff in August, 1938?

A. With my approval.

Q. Yes. A. With my approval.

Q. But this last time you did it yourself?

A. That is right.

Q. You initiated the discharge?

A. That is right.

Q. The general handling of those matters, except in these special cases of Schlichter and Lugoff, is in the hands of the department head, isn't it?

A. No, no discharges. The department head should refer any discharge to me unless it is something that occurs that [97] demands action on the spur of the moment.

Q. I understand that, but here is what I am trying to get at: With the exception of these two cases, and the cases of the other five employees who were reinstated under the strike settlement, with those exceptions, the other discharges that you know of all were handled first by the department head who had referred the discharges to you; is that right? A. The suggestion for the discharge.

(Testimony of Harlan G. Palmer.)

Q. Yes. In other words to clarify it, do you recall of any other instance when you yourself discharged anyone other than these people who were involved in the strike settlement agreement, and Lugoff?

A. Well, the people involved in the strike settlement agreement and Lugoff and Schlichter in this case are two entirely different cases.

Q. With the exception of the people named in the strike settlement agreement and Schlichter and Lugoff, have you ever directly discharged anyone other than those people yourself?

A. Well, the only two direct discharges were these two now before us.

Q. Are those the only people that you have ever discharged directly?

A. No, no, I don't think so.

Q. Can you name any person you discharged directly? [98]

A. Well, I am of the opinion that I directly discharged Lawrence Hill, a city editor.

Q. He is more supervisory, I am talking about the regular people.

A. No, I don't recall of a specific instance.

Q. Just Lawrence Hill?

A. Not just Lawrence Hill. I mean a specific instance of a regular employee not being discharged through his department head. The two cases before us——

(Testimony of Harlan G. Palmer.)

Q. And Hill.

A. I took the responsibility—no, if some other department head was laid off, I think Homer King, unfortunately I had to be the one responsible for him. I think a bookkeeper I had to be responsible for who embezzled funds.

Q. To get even more specific, can you recall at this time any ordinary employee in the classified or display departments that you discharged directly?

A. Not a sales person, I cannot.

[99]

Q. Can you explain to the Examiner why if you had to economize at that time, why you put Mr. Lugoff back to work in 1938?

A. I can only endeavor to repeat the same reasoning that I repeated this morning, that Mr. Lugoff's appeal was on the grounds that these five people had been reinstated when the management believed it could dispense with their services and that therefore he, Mr. Lugoff, who had not been on the strike, certainly should be given the same consideration, the same kind of treatment as those who had been out on strike.

Q. Would you have extended the same to any other employee?

A. If a similar appeal had been made to me?

Q. Yes.

A. I don't see how I could have refused it.

Q. Now, after the people returned after the

(Testimony of Harlan G. Palmer.)

strike did you change rules with respect to conduct of employees? [116]

A. In what respect? I don't recall any.

Q. For instance, prior to the strike the people up in the editorial department and elsewhere throughout the plant could use the typewriters for their own personal letters, couldn't they?

A. So far as I know they continued to use them.

Q. But didn't you post a rule against that right after *the* returned in August, 1938?

A. Just a minute, I will have to see.

Mr. Sokol: Will you mark it Board's Exhibit 12 for identification?

(Thereupon, the document referred to was marked as Board's Exhibit No. 12 for identification.)

Q. (By Mr. Sokol) I show you Board's Exhibit 12 for identification, are those the rules you just handed me which were posted after the strikers returned?

A. This is what I believe is a copy of the rules posted by Mr. Swisher, the managing editor, on August 15, 1938.

Mr. Sokol: I offer those into evidence.

Trial Examiner Whittemore: Any objection?

Mr. Sargent: No.

Trial Examiner Whittemore: It is received.

(Thereupon, the document heretofore marked for identification as Board's Exhibit No. 12, was received in evidence.) [117]

(Testimony of Harlan G. Palmer.)

Q. (By Mr. Sokol) Now, did you have any part in drawing up these rules? A. No, sir.

Q. Do you know whether there were any rules previously posted with respect to the conduct of employees? A. I couldn't say, no, sir.

Q. Right after the strike you editorialized upon the strike and what had transpired; is that correct?

A. An editorial was written, as I recall, and printed.

Q. Do you have that?

A. We have the files here. Do you know the date, Mr. Sokol?

That would be in August—well, I have copies, I don't want the whole file. It would be about August 15th. The strike was settled on the 30th of July.

Trial Examiner Whittemore: We will go off the record until you have located this.

(Discussion off the record.)

Trial Examiner Whittemore: On the record.

Q. (By Mr. Sokol) After the strike you came to the conclusion that the Guild was out to destroy you; is that right? A. After the strike?

Q. Yes, and before the strike.

A. During the strike I came to the conclusion that the Guild was out to destroy us. [118]

Q. And you have been of that opinion ever since, have you?

A. Well, either the Guild or the National Labor Relations Board, yes. I think that one or the other

(Testimony of Harlan G. Palmer.)

is out to destroy us. They are trying to compel us to close our doors, yes.

Q. You considered yourself somewhat of a liberal or even a radical at times prior to this union agitation, haven't you?

A. No, I didn't so consider myself. I have been charged even with being a communist, but I don't so consider myself.

Q. Well, you considered yourself a liberal?

A. No.

Q. With respect to labor organizations, you favored labor organizations, did you?

A. Yes, I never have battled with a labor organization except when they compelled me to defend my business in the strike.

Q. Well—

A. I believe in unionism, yes, if you want to know that, I do.

Q. I didn't ask you that. I move to strike that as not responsive.

Trial Examiner Whittemore: It may be stricken.

Mr. Sargent: It is part of the general picture, your Honor.

Trial Examiner Whittemore: Well, if you feel it is important to your case, make a note of it. [119]

Mr. Sargent: Well, this is in the nature of cross-examination even though it is on direct.

Q. (By Mr. Sokol) Why did you come to the conclusion that the union was out to destroy you.

(Testimony of Harlan G. Palmer.)

A. Because of their activities during the strike.

Q. What activities are you referring to?

A. All sorts of activities, publications, loud speaker, everything denouncing Judge Palmer and The Citizen-News as a dishonest, unscrupulous institution. "Palmer is a law violator and a rattlesnake." And things like that couldn't help but, if believed, to do permanent injury to the institution.

Q. Your policy, however, when you first started up the publication was against recognition of a union, wasn't it?

A. My policy what?

Q. When you first started in the newspaper publishing business?

A. No.

Q. How about the typographical union?

A. In reference to the typographical union, you will notice if you will read the testimony of John Dalton before the National Labor Relations Board, John Dalton is the chief executive of the typographical union, you will notice in that testimony that Dalton said that Harlan Palmer always told him that whatever the majority of his employees wanted they could have and that has always been my position [120]

Q. After the strike did you still believe the Guild was out to destroy you?

A. I don't know what the Guild is up to now and the Board, I can't understand it.

Q. I am just asking you about the Guild.

A. They might be, I don't know, they might be.

(Testimony of Harlan G. Palmer.)

The two of them in combination might be still out to destroy me.

Q. Didn't the Guild endeavor to get your subscribers for you after the strike? Didn't they send letters out for you to try to get advertisers and the subscribers back? A. Well——

Q. Is that true or isn't it?

A. Not to my direct knowledge. I only know that Mr. Simonton, one of the Guild members, who had had his vacation prior to the strike, following the strike at the time of the strike settlement, we suggested to all our employees that they all take two weeks vacation and Simonton said that he had had his and that he would put in his time trying to get back the subscribers who had stopped.

Q. Didn't——

A. Our records show very few subscribers who had stopped ever came back but Simonton claimed that he put in two weeks trying to get back subscribers.

Q. Didn't the Guild send out letters to firms which had been boycotted to reinsert their advertising in your paper? [121]

A. No. Following the strike the Guild sent out letters further, condemning the Citizen-News.

Q. Have you got any such letter?

A. I think we can find it.

Trial Examiner Whittemore: Off the record.

(Discussion off the record.)

(Testimony of Harlan G. Palmer.)

Trial Examiner Whittemore: On the record.

Q. (By Mr. Sokol) Can you find that particular letter?

A. No. I think there were several letters of the type I had in mind that followed the strike. Here is one and we will make a further search at the office tonight. Here is one of April 6, 1940, sent out by Tom O'Connor to the Hollywood business people.

Mr. Sokol: I would like to have it marked Board's next in order.

(Thereupon, the document referred to was marked as Board's Exhibit No. 13, for identification.)

May that go into evidence?

Trial Examiner Whittemore: Do you have any objection?

Mr. Sargent: No objection.

Mr. Sokol: I will offer that as Board's Exhibit 13.

Trial Examiner Whittemore: You have no objection?

Mr. Sargent: No. I would like to have it in.

Trial Examiner Whittemore: It will be received.

(Thereupon, the document heretofore marked for identification as Board's Exhibit No. 13, was received in evidence.) [122]

Q. (By Mr. Sokol) Now, do you have the records available about the employees in the display

(Testimony of Harlan G. Palmer.)

and in the classified showing their lineage and et cetera?

A. I have the classified lineage to compare with Mr. Lugoff but I think I will have to have the classified manager come down and explain them. I can't explain them. I have the records brought down but the records themselves I don't believe are sufficiently clear for me to explain.

Q. Well, do you have a summary?

A. No, only of Mr. Lugoff, but here are the records. You can see how they run. In a week there are the number of ads, the number of lines, the commissions earned, and the total commissions, phone room commission.

Q. Let's single out on that letter one, take that for example. This one shows classified advertising department, commission report for Thursday, June 2, 1938; is that right? A. Yes.

Q. Now, it shows that Mr. Lugoff sold 129 ads, a total of 522 lines; is that right? A. Yes.

Q. He was the third highest man out of six people in the department? He was the third highest in the sale of ads and lineage; is that right?

A. Well, let's see what these other figures mean.

Q. I am talking about the outside people, not in the phone room. [123] I mean just the outside salesmen, of the six he was the third, wasn't he, in the sales of that date?

Trial Examiner Whittemore: Well, that document so far hasn't been marked.

(Testimony of Harlan G. Palmer.)

Mr. Sokol: No, I am taking this as an example.

Trial Examiner Whittemore: It doesn't mean much even if he admits it unless you have it marked.

Mr. Sokol: Will you mark this Board's Exhibit 14 for identification, this particular page?

(Thereupon, the document referred to was marked as Board's Exhibit No. 14 for identification.)

Trial Examiner Whittemore: The point is the document is the best evidence and it doesn't need his admission to get it into evidence.

Mr. Sokol: The document we have been talking about, Board's Exhibit 14 for identification, from this exhibit, Lugoff out of the six outside salesmen was third highest in sales and lineage—

Mr. Sargent: I didn't want to interrupt counsel unduly but I do not want to have any statement in the record prejudicial to the respondent unless I know that it is representative of the general record and is not a single date isolated.

Mr. Sokol: I just took it because he happened to open to that page. [124]

Trial Examiner Whittemore: I think the record might show what that document is.

Q. (By Mr. Sokol) What is Board's 14 for identification?

A. The document is a record sheet for the week ending June 2, 1938 of the ads secured and the lineage secured and the commission earned and the

(Testimony of Harlan G. Palmer.)

bonus earned of employees of the classified department.

Q. May I have those to examine? A. Yes.

Q. Then we will have the opportunity to recall you on that if it is necessary.

I would like to have this marked 15 for identification.

(Thereupon, the document referred to was marked as Board's Exhibit No. 15, for identification.)

Q. By Mr. Sokol: This is an editorial which appeared August 1, 1938, upon the settling of the strike? A. Yes.

Mr. Sargent: August what?

Mr. Sokol: 1st.

Q. That was published in your paper?

A. Yes.

Mr. Sokol: I offer this editorial in evidence.

Mr. Sargent: May I take a look at it? I am unfamiliar with it.

Mr. Sokol: Yes. [125]

Mr. Sargent: I have no objection to it. I would be glad to have it go into evidence.

Trial Examiner Whittemore: It is received.

(The document referred to was marked as Board's Exhibit No. 15, and was received in evidence.)

Mr. Sokol: That is all.

(Testimony of Harlan G. Palmer.)

Trial Examiner Whittemore: Before the witness goes on cross examination may I just call your attention, Mr. Sokol, to the fact that there are a number of documents marked for identification which haven't as yet been offered.

Mr. Sokol: Yes, there are several.

Trial Examiner Whittemore: 2, 4, 5, 6, 10, 11, and 13. I suggest you check on that just so we won't get too far away from them.

Mr. Sokol: I will check on those right away.

Trial Examiner Whittemore: Off the record.

(Discussion off the record.)

Trial Examiner Whittemore: On the record.

Mr. Sokol: Mr. Examiner, at this time I will offer Board's 2, which was Mr. Schlichter's employment record.

Trial Examiner Whittemore: Any objection?

Mr. Sargent: No objection.

The Witness: That being the unemployment and old age pension record I think that it should be offered with our permission to substitute a photostatic copy. [126]

Mr. Sokol: Yes, that is understood.

The Witness: Because if an employee would ever want the Government to check back then it would be gone from our records——

Trial Examiner Whittemore: I am sure Mr. Sokol has no objection to that. It will be received.

(Thereupon, the document heretofore marked for identification as Board's Exhibit No. 2, was received in evidence.)

(Testimony of Harlan G. Palmer.)

Mr. Sokol: And I will offer 4, the tear sheet.

Trial Examiner Whittemore: Any objection?

Mr. Sargent: No.

Trial Examiner Whittemore: It is received.

(Thereupon, the document heretofore marked for identification as Board's Exhibit No. 4, was received in evidence.)

Mr. Sokol: The reason it is offered, is that Mr. Palmer testified about it.

I will offer 6A, 6B and 6C. However, this has to be supplemented, Mr. Examiner, with the lineage produced. I will offer that as a document which was prepared at the direction of Mr. Palmer.

The Witness: Yes.

Mr. Sokol: Showing the earnings of Mr. Lugoff during the period. [127]

Trial Examiner Whittemore: You are offering A, B and C?

Mr. Sokol: Yes.

Trial Examiner Whittemore: Any objection?

Mr. Sargent: No.

Trial Examiner Whittemore: It will be received.

(Thereupon, the documents heretofore marked for identification as Board's Exhibits 6A, 6B and 6C, were received in evidence.)

(Testimony of Harlan G. Palmer.)

BOARD EXHIBIT 6-A

LUGOFF EARNINGS 1938

Week ending

Jan	6	\$25.50
	13	32.50
	20	32.77
	27	31.50
Feb	3	32.18
	10	33.00
	17	35.76
	24	34.14
Mar	3	32.07
	10	31.85
	17	32.53
	24	31.96
	31	25.83
Apr	7	22.43
	14	22.13
	21	19.74
	28	20.10
May	5	20.49
	12	20.72
	19	19.67
	26	20.15
June	2	19.07
	9	18.00
	16	19.21
	23	19.91
	30	20.83
July	7	19.56
	14	17.44
	21	16.51
	28	15.73
Aug	4	Vacation
	11	“ Discharged, reinstated
	18	18.79
	25	13.94

(Testimony of Harlan G. Palmer.)

Week ending		
Sep	1	\$18.34
	8	18.92
	15	19.12
	22	19.28
	29	20.95
Oct	6	22.75
	13	23.41
	20	24.16
	27	24.98
Nov	3	24.01
	10	23.33
	17	25.96
	24	37.80
Dec	1	24.67
	8	23.52
	15	22.73
	22	23.24
	29	25.19
<hr/>		
Total		1198.37

BOARD EXHIBIT 6-B

LUGOFF EARNINGS 1939

Week ending	Paid	Earned
Jan	5	\$20.43
	12	20.94
	19	23.01
	26	23.22
Feb	2	24.33
	9	22.00
	16	23.11
	23	23.06
Mar	2	21.86
	9	23.52
	16	23.79
	23	23.03
	30	22.60

(Testimony of Harlan G. Palmer.)

Week ending		Paid	Earned		
April	6	\$21.87			
	13	23.06			
	20	25.36			
	27	24.25			
May	4	24.64			
	11	24.32			
	18	24.78			
	25	23.11			
June	1	22.32			
	8	Vacation			
	15	"			
	22	19.29			
July	29	19.68			
	6	24.00	\$18.94	Min. guarantee \$24. wk. in	
				effect at this time	
	13	24	19.26		
	20	24	20.90		
	27	24.11	24.11		
Aug	3	24	23.41		
	10	24.50	24.50		
	17	24	19.26		
	24	24	20.08		
	31	24	20.45		
Sept	7	24	20.82		
	14	24	19.96		
	21	24	19.05		
	28	24	18.30		
Oct	5	24	19.98		
	12	24	20.56		
	19	24	19.72		
	26	24	21.33		
Nov	2	24	21.09		
	9	24	22.12		
	16	24	22.55		
	23	26.54	26.54		
	30	24	22.45		
Dec	7	24	20.79		
	14	24	21.28		
	21	24	20.59		
	28	24	18.69		
Total		1174.73	546.73		

(Testimony of Harlan G. Palmer.)

BOARD EXHIBIT 6-C

LUGOFF EARNINGS 1940

Week ending		Paid	Earned
Jan	4	\$24.00	\$18.77
	11	24	20.34
	18	24	18.64
	25	24	20.13
Feb	1	24	19.97
	8	24	19.65
	15	24	20.65
	22	24	19.26
	29	24	18.84
March	7	24	19.20
	14	24	18.52
	21	24	20.10
	28	24	22.30
Total		312.00	256.37

Trial Examiner Whittemore: How about 5, Mr. Lugoff's employment record?

Mr. Sokol: I will offer that.

Mr. Sargent: No objection.

Trial Examiner Whittemore: It is received.

(Thereupon, the document heretofore marked for identification as Board's Exhibit No. 5, was received in evidence.) [128]

(Testimony of Harlan G. Palmer.)

BOARD EXHIBIT 5

The Citizen-News Company

Form G-76

Date Employed Jan 10, 1930
over

EMPLOYEE RECORD

Personnel Department

Name—Lugoff, Leonard Seymour

Social Sec. No.—562-01-1040

Address—330 5th Ave, Venice

Address—355B Vernon Street, Venice

Address—551 Vernon Street, Venice

Address—1316 Riviera, Venice

Address—1314 Riviera, Venice

Address—256 Horizon, Venice

Address—1149 N Genessee

Position—Salary—Promotions

Date: Jan. 1, 1937:

Department: Classified

Manager: Tobin

Position: Salesman

Wages and Salary: \$10.00-comm.

Date: July 1, 1939:

Department: Classified

Manager: Tobin

Position: Salesman

Wages and Salary: Minimum \$24.00

(Testimony of Harlan G. Palmer.)

Date of Birth—December 9, 1896

Date Becomes 65—December 9, 1961

Male—X

Married—X

Rent—X

No. of Children—1

Notify: Miriam Lugoff; relationship: wife in case
of accident

Home Address—Same

Phone No.—Same

Date Leaving Employment—3/30/40

Discharged—X

Remarks—Low production

March 29, 1930

Off 9/13/30

Retd. Nov. 14, 1931

Off Sept. 17, 1932

Jan. 13, 1934—Circ Dept.

Aug. 1934—Class Dept.

.....
Signature

A. Not at this time, no.

Q. How many would you say?

A. I don't know as any of them that are in the
plant at the present time are out to destroy me. I
wouldn't designate one as being out for that pur-
pose.

(Testimony of Harlan G. Palmer.)

Q. Have you got rid of all of them who were out to destroy you?

A. Well, at the time of the strike and after the strike I believe that they were all out to destroy me, not any particular one, but the Guild itself. The Guild includes not only the members in our organization but the members on other newspapers in this area.

Mr. Sokol: That is all.

Mr. Sargent: No questions.

(Witness excused)

Mr. Sokol: Is Mr. Sternberg here?

Mr. Palmer: Mr. Sternberg was downtown this noon and it was impossible for Mr. Thompson to get him.

Mr. Sokol: Mr. Lugoff, will you take the stand?

LEONARD LUGOFF,

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Sokol) State your name. [142]

A. Leonard Lugoff.

Q. And your address?

A. 420 East 111th Place.

Q. Los Angeles?

A. Los Angeles.

(Testimony of Leonard Lugoff.)

Mr. Sokol: May this be off the record?

Trial Examiner Whittemore: Yes. Off the record.

(Discussion off the record.)

Trial Examiner Whittemore: On the record.

Q. By Mr. Sokol: There has been reference made here to the Hollywood News. Did you work for that paper? A. Yes.

Q. That was the paper that eventually merged with the Citizen? A. That is right.

Q. When did you go to work for that paper?

A. The Hollywood News?

Q. Yes.

A. Well, I first went to work for the Hollywood News in 1928.

Q. Was the Citizen then in existence at that time? A. Yes, it was.

Q. Had you worked for the Citizen prior to that time? A. Yes, I did.

Q. When did you work for the Citizen? [143]

A. I worked for the Citizen from 1926 to 1928.

Q. In what capacity?

A. Classified.

Q. Selling advertising, classified advertising?

A. Selling classified advertising.

Q. Were you on the inside or the outside?

A. Outside.

Q. What were you earning? Did you have a guarantee in 1926?

(Testimony of Leonard Lugoff.)

A. With the Citizen News I started with the guarantee of \$30.

Q. A week?

A. A week. It was later raised to \$35 with 20 percent commission as a basis of pay all the way through.

Mr. Sargent: Was that the Citizen News?

The Witness: That is the Citizen.

Mr. Sargent: The Citizen, excuse me.

Q. (By Mr. Sokol) What was your commission? A. 20 per cent commission.

Q. And if it reached over the guarantee you got that money?

A. I got that if it were less, and I still got my \$30 or \$35.

Q. Did you always make your guarantee?

A. Very seldom.

Q. You worked there two years at that time. Can you approximate the time when you made your guarantee? [144]

A. Oh, out of those two years I would say two or three months at the most.

Q. Did *you* a commission per line at that time?

A. No, it was based on——

Q. 20 per cent? A. 20 per cent.

Q. Then in 1928 you went to the News?

A. That is right.

Q. Was it at the same rate or a higher rate?

A. A higher rate.

Q. Doing the same kind of work?

(Testimony of Leonard Lugoff.)

A. Doing the same kind of work.

Q. When did you return to the Citizen?

A. Well, I returned when there was a merger between the Citizen News—between the Citizen and the News in 1931.

Q. Had you been working in the intervening period for the News?

A. Yes, I was working for the News when the merger took place.

Q. Now, after the merger, did you remain in constant employment up to the time you were finally discharged?

A. I worked for the Citizen News for a 25 per cent commission for about a year.

Q. Then what happened then?

A. I left the employment of the Citizen News.

[145]

Q. Did you quit voluntarily?

A. I quit voluntarily.

Q. When did you return to the paper?

A. 1934.

Q. At that time what did you do?

A. I was in the circulation department, solociting circulation.

Q. How long did you do that?

A. Six months.

Q. After that what did you do?

A. I went into the classified department.

Q. Selling ads?

(Testimony of Leonard Lugoff.)

A. Classified advertising.

Q. . You were an outside man again?

A. Outside man.

Q. What commission?

A. 25 per cent commission.

Q. Did you continue at that rate for any period of time?

A. I continued on the rate of 25 per cent for about six months and then asked to be taken off of it and put on a similar rate like the other people on the outside were employed.

Q. What was that rate?

A. Well, the rate differed with the different employees but I wanted mine to be approximately the same as 25 per cent commission that I was getting. [146]

Q. What was the rate that you went on?

A. Mr. Tobin put me on \$10 base pay, a cent and a half a line, and a cent an ad.

Q. Will you explain that, the base pay? What does that mean?

A. Well, that was the amount of money that they started with, in other words, I got \$10 and then the number of lines that I ran, they figured out, multiplied it by a cent and a half and the number of ads per week by a cent, and added \$10 on it. In other words, \$10 plus a commission.

Mr. Sargent: May I have that answer again?

(Record read by the reporter.)

(Testimony of Leonard Lugoff.)

Mr. Sokol: May we go off the record for a minute?

Trial Examiner Whittemore: Yes. Off the record.

(Discussion off the record.)

Trial Examiner Whittemore: On the record.

Q. (By Mr. Sokol) Did you continue on that rate or was it changed?

A. Well, I protested that rate about a week or so after I got it and the only change Tobin would make would be if I reached a thousand lines a week, that he would raise the pay per line to 2 cents instead of 1½ cents.

Q. What territory did you have?

A. I covered everything from Western Avenue, the west side of Western Avenue, to Highland Avenue north and south. [147]

Q. Did you continue on that territory up to your final discharge?

A. Up to 1940, yes, sir.

Q. Was your employment steady after that?

A. The employment was steady after that.

Q. In 1937 were you party to the formation of any committee for collective bargaining?

A. The classified at that time. At that time the classified went enmasse into Young's office to hear what he had to say about forming a committee.

Q. Were they requested to do that?

A. They were requested to do that.

Q. Who requested that?

(Testimony of Leonard Lugoff.)

A. There was a notice sent out that we should get together with Mr. Young.

Q. Was that notice from the management?

A. From Mr. Young, yes, from the management.

Q. What occurred?

A. We discussed different raises, car allowance, different things that the phone room thought was necessary, and what the outside thought was necessary.

Q. There was a discussion of wages, hours, and working conditions? A. Yes.

Q. Was the Guild attempting to organize in the department at [148] that time?

A. No, the Guild was not attempting to organize.

Q. Were they organized in the editorial department?

A. They were organized in the editorial department.

Q. How about Mrs. Brichoux?

A. Mrs. Brichoux was very much interested in the Guild.

Q. Will you spell that name?

A. B-r-i-c-h-o-u-x.

Q. Did she work in your department?

A. She worked in my department.

Q. I mean do you know if there was any attempt to organize your department at that time?

A. There was an attempt by Mrs. Brichoux to get other members, classified members, to join the Guild.

(Testimony of Leonard Lugoff.)

Q. Do you know if any agreement was signed between this committee and the management for your department?

A. The management wanted to sign an agreement for a year but Mrs. Brichoux advised against it because she wanted the Guild to act as the bargaining agent.

Q. Was any contract signed with the Guild?

A. No contract was signed.

Q. When did you join the Guild?

A. October 1, 1937.

Mr. Sargent: 1937, was that?

The Witness: That is right. [149]

Q. By Mr. Sokol: You know if the Guild was then attempting to negotiate a contract for the editorial department?

A. Yes, they were.

Q. A strike took place in May, 1938, do you recall that?

A. Yes.

Q. Did you go out on strike?

A. No, I didn't.

Q. Were you asked to turn in your card?

A. Yes, I was.

Q. In the Guild?

A. Yes.

Q. During that strike period what was the effect on your lineage?

A. My lineage took a very decided drop.

Q. In August did you have a vacation at any time?

A. Two weeks prior to my discharge I had a vacation.

(Testimony of Leonard Lugoff.)

Q. Did you have any conversation with Mr. Tobin before going on your vacation?

A. I took up with Mr. Tobin my low production, telling him that I was contemplating a loan of \$300 and that if there was any doubt about keeping me on account of that low production, I wouldn't go through with the loan and he told me at the time to go ahead and get the loan. There was nothing to worry about.

Q. How long were you away on your vacation?

[150]

A. Two weeks.

Q. When you returned did Tobin speak to you concerning your employment?

A. He didn't say anything until the latter part of the week, then he informed me that he had to let me go.

Q. What did he say?

A. He said that the strikers were coming back and they had to cut expenses and they decided to let me go.

Mr. Sargent: I didn't hear that.

Trial Examiner Whittemore: Read the answer.

(Record read by the reporter.)

Q. (By Mr. Sokol) Did you tell Mr. Tobin about what he said previously about your security?

A. Yes, I told him that and he said——

Q. What did you tell him?

A. I told him that here I went out and got a loan and I was in debt now with no work contem-

(Testimony of Leonard Lugoff.)

plated or I didn't know where I was going to get another job and I told him I didn't think it was right.

Q. What did he say?

A. He said "If you want to go above my head and see Mr. Young or Mr. Palmer, it is agreeable with me."

Q. What did you say then?

A. Well, that took place on a Friday. Over the week end I went home and thought about it and on Monday morning I came [151] in to see Tobin and tell him I was going up to see Mr. Palmer.

Q. Was that August 22nd?

A. That was Monday, August 22nd.

Q. You saw Mr. Palmer then?

A. Mr. Tobin happened to be away on his vacation and I went right up to Mr. Palmer's office.

Q. You didn't see Mr. Tobin?

A. No, Mr. Tobin was on his vacation. He started that Monday.

Q. State your conversation with Mr. Palmer.

A. Well, I came into Mr. Palmer's office and Mr. Young and Mr. Palmer were seated there. I told Mr. Palmer that I wanted to speak to him about my discharge last Friday and he said for me to go right ahead and tell him all about it.

So I told him that I had been employed in classified for the past five years, that up to the time of the strike my production warranted my employment. I was bringing in enough business to more

(Testimony of Leonard Lugoff.)

than pay for my employment, and during the strike the three months, May until August, that my production in advertising had dropped considerable. I told him that I was a member of the Guild before the strike and gave up my membership card at the time of the strike.

I told him that I took up with Tobin before going on my vacation two weeks previously about my low production, telling [152] him about the contemplated loan and getting Tobin's O. K. that it was all right to go ahead. I told him that now that I had a \$300 debt on my shoulders and no job that I knew that Mr. Palmer himself was not legally responsible but the debt would nevertheless have to be paid and it would never have been incurred if Tobin hadn't told me that my job was O. K. And I left it at that. That is——

Q. What did he say?

A. He thought a minute and he said, "Do you want us to pay that \$300 or do you want your job back?"

Q. What did you say?

A. I said naturally I had to work. Well, he said, "Lugoff, you go downstairs and wait an hour and Mr. Young and I will talk it over."

Q. Did he at any time tell you that you could come back on the same conditions that the five people who had been discharged immediately prior to the strike and who were coming back under the strike settlement agreement?

(Testimony of Leonard Lugoff.)

A. Mr. Palmer said nothing to me but "Do you want your job back or do you want us to take over the \$300 loan."

Q. Did you ever mention the strike settlement agreement to him at that time?

A. I don't recollect mentioning any strike settlement agreement.

Q. Did he say anything about the strike settlement agreement? [153]

A. Not to me.

Q. Then you went downstairs. What was the next thing that happened?

A. I waited a half an hour and Mr. Young came and handed me a slip of paper with the stipulations by which I was rehired back.

Q. Did he say anything to you at that time that you were to remain in the employee of the company until the Board ruled on the strike settlement agreement—I will reframe that. Did he say anything to you about when your employment was to terminate?

A. The stipulations in the written notice were very exact. He stated that I was on probation for four months until January 1, 1939.

Q. Did he say anything to you about the fact that you would be discharged if the Board held adversely to the people who had filed a charge before the Board?

A. No, there was no statement about the strike settlement agreement at all.

Mr. Sokol: Will you mark this for identification, Mr. Reporter?

(Thereupon, the document referred to was marked as Board's Exhibit No. 16, for identification.)

Q. (By Mr. Sokol) Did he give the statement to you in writing of the conditions under which you were to be reemployed? [154]

A. He did.

Mr. Sargent: Will you read the last question and answer?

(The question and answer were read.)

Q. (By Mr. Sokol) I show you Board's Exhibit 16 for identification. Is that the original statement you got? A. Yes.

Mr. Sokol: I offer it in evidence.

Trial Examiner Whittemore: Any objection?

Mr. Sargent: No objection.

Trial Examiner Whittemore: It is received.

(Thereupon, the document heretofore marked for identification as Board's Exhibit No. 16, was received in evidence.)

(Testimony of Leonard Lugoff.)

BOARD EXHIBIT 16
INTER-OFFICE MEMO
Hollywood Citizen-News

August 22, 1938.

To: Mr. Lugoff

Subject:

You will be retained in your present position, with final decision to be made on January 1, 1939. The intervening period will be probationary.

T. H. YOUNG

Business Manager.

Mr. Sargent: Did you ask him who gave him that?

The Witness: The business manager, Mr. Young.

Q. (By Mr. Sokol) Was Mr. Palmer present?

A. No.

Q. Have you given us all the conversation?

A. Yes.

Q. Are you positive that you were not told that your employment would terminate if the Board found against these people who had charges pending? A. Positive.

Mr. Sokol: That has been received? [155]

Trial Examiner Whittemore: Yes.

Q. (By Mr. Sokol) Now, referring to Board's 16, it is very brief, it says: "You will be retained in your present position with final decision to be

(Testimony of Leonard Lugoff.)

made on January 1, 1939. The intervening period will be probationary. T. H. Young, business manager, dated August 22, 1938."

With respect to this was there any determination made on January 1, 1939 of your position?

A. There was nothing said and I didn't bring it up.

Q. Did you ever receive any complaints about your production after August 22, 1938?

A. No.

Q. Did you receive any notice of any kind on January 1, 1939?

A. No.

Q. Or thereafter?

A. No.

Q. You did receive a letter discharging you, however, did you?

A. A year and a half after.

Q. In the meantime you had given up your Guild membership for awhile, had you?

A. That is right.

Q. Did you rejoin the Guild?

A. I rejoined the Guild in February, 1939. [156]

Q. Let me ask you this: After you were reinstated in August, 1938, you worked under Tobin again?

A. Yes.

Q. And in your old job?

A. The same position.

Q. After you came back to work, did you ever have any conversation with Tobin about union activities?

A. Tobin made a statement the first week he

(Testimony of Leonard Lugoff.)

came back from his vacation, he said, "I suppose you have rejoined the Guild?"

And I told him, "no." And a week later he asked the same question.

And I said, "Tobin, the only time that I will rejoin the Guild is when classified gets organized and I can figure out a way that I am going to be benefited directly by it, and that is only when classified is organized."

Q. Then you did rejoin the Guild in February, 1939? A. That is right.

Q. Were there any other people who were members of the Guild at that time?

A. In classified?

Q. Yes. A. Helen Brichoux.

Q. After you rejoined the Guild, did you make any effort to get others to join? [157]

A. Yes, I did. In May, 1939, I went around with a petition telling the different——

Mr. Sargent: I object to this as nonresponsive.

Q. (By Mr. Sokol) What did you do in May, 1939?

Trial Examiner Whittemore: He said he went around with a petition. Go ahead and finish your statement.

The Witness: I don't remember the question now.

Trial Examiner Whittemore: All right. Read it. (Question read by the reporter.)

(Testimony of Leonard Lugoff.)

The Witness: Telling different members in classified that they could get the Guild to bargain for them without becoming members of the Guild providing we got a majority in classified to sign a petition.

Mr. Sargent: I ask that go out unless it was known to the management that such was the case. What he did without the knowledge of the management is not material.

Trial Examiner Whittemore: Well, I will deny the motion at the moment. You may, however, renew it later after we have found out where the petition was taken and to whom it was presented and when it was taken and so forth.

Q. (Mr. Sokol) What is this document?

A. (Examining document) That was the last petition I made.

Q. Did you get any people to sign that first petition?

A. The first petition I got three people besides myself, there were four names on it. [158]

Q. Were all those people in your department?

A. All in the department. At that time the majority that I needed was only three more names and I would have a majority.

Q. By the way, how did you go about circulating that petition? Was that right in the plant?

A. Yes.

Q. Is Tobin around in the department all the time?

A. Most of the time.

(Testimony of Leonard Lugoff.)

Q. Was Tobin present at any time when you were doing this?

A. Well, he came in during—for instance, he came in during the noon hour while I was speaking, talking privately to one or two of the employees in classified.

Trial Examiner Whittemore: Suppose you speak up so everybody can hear you.

Q. (By Mr. Sokol) Did the petition authorize the Newspaper Guild to represent the people?

A. Yes, it did.

Q. After you passed that out and you didn't get the majority to sign it, did you take any step with respect to getting better conditions for your department?

A. Well, I made an appointment with Mr. Young telling him that I wanted to talk to him about a condition that I thought should be corrected in classified and the day I had an appointment with him I took a Mr. Allen along with me, as moral support, figuring that two heads would carry a little [159] more weight than one.

Q. Let me ask you this: When you got your job back from Mr. Young, in your conversation with Mr. Palmer before getting the job back, did you mention anything about your having been a member of the Guild?

A. Yes, I did. I think that is in the testimony now. I told him that I was a member of the Guild before the strike but gave up my card at the strike.

(Testimony of Leonard Lugoff.)

Q. Did you say anything to Mr. Young about that?

A. Young was present—you mean at the time I spoke to Palmer?

Q. Yes.

A. Young was present during my conversation with Palmer.

Q. On this occasion when you went to see Mr. Young with Mr. Allen, what was the conversation about?

Trial Examiner Whittemore: Who is Allen, first?

Q. (By Mr. Sokol) Who is he?

A. Mr. Allen is one of my co-workers in classified, one of the salesmen.

I told Mr. Young that the outside wasn't getting any guaranteed living wage, that at any time that there was a depression or some condition arose that was out of the control of the outside men, that our wages went down and there was—and that the firm I thought was morally responsible to see that everybody that it employed got a living guaranteed wage [160] and that dissatisfaction led to the growth and in the establishment of unions and guilds. And Mr. Allen also told him something about in the same line.

And he said, "Well, you boys go out and write your reasons up and hand them in and we will see what we can do about it."

(Testimony of Leonard Lugoff.)

Q. What did you hand in?

A. Well, I wrote the same reasons that I had given Mr. Young.

Q. Did you ask for anything specific?

A. There was nothing specific. The only thing specific I asked for was a guaranteed living wage.

Q. Did you ask for any specific amount?

A. No, no specific amount.

Q. When was this meeting?

A. This meeting was the last week in June, 1939.

Q. Then did you receive the guarantee of \$24 a week?

A. Everybody got a guarantee of \$24 a week starting the 1st of July.

Q. Did Mr. Young say to you at that time that you had no right to a guarantee of \$24 because just the previous week you had only made \$19?

A. Nothing was said about it. There was no specific amount asked, nothing was said about that. No comparison was made with wages that were made the week previous or [161] two weeks previously.

Q. After your guarantee went into effect, did you ever make it?

A. Out of the 38 weeks approximately that I was employed after the guarantee went into effect, I think I made it twice.

Q. According to these figures here in Board's 6A, B and C, I don't see where you made it at all. Will you look at those?

(Testimony of Leonard Lugoff.)

A. I should have made it Thanksgiving week.

Q. You are right. Yes, that is right, pardon me. You made it July 27th.

A. That was when I was taking over somebody else's territory along with my own.

Q. And the week ending August 10th you made it.

A. And I made it the week ending November 23rd.

Q. That is correct. That should be 36.

Trial Examiner Whittemore: Speak up.

The Witness: One of these figures right off hand I would say wasn't correct.

Q. (By Mr. Sokol) So far as you know, you only made your guarantee two or three weeks?

A. Yes, so far as I know I only made it two or three weeks.

Q. Did you ever get any reprimand for not?

A. No.

Q. While we are on the subject of guarantee, at that time [162] you were guaranteed \$24 a week. How much did you make per ad?

A. Well, it was the same basis, that I was paid a cent and a half a line and a cent an ad and \$10 base pay.

Q. You know of people with less seniority than you doing the same type of work and getting more than a cent an ad and a cent and a half a line?

A. Yes, I was the lowest paid man in classified, that is, on the outside.

(Testimony of Leonard Lugoff.)

Q. Do you know what your production was, however? A. Yes.

Q. With respect to your production of lineage, where did you stand?

A. I was the second high on the outside——

Mr. Sargent: Wait a minute. I object to that unless he also tells us first his production as compared with the total production.

Trial Examiner Whittemore: Well, you want to lay more ground work for this. This is asking him more or less for a conclusion. If there are records available I would suggest they would be the best evidence.

Q. (By Mr. Sokol) Did you ever see any records of the lineage? A. Yes, I did.

Q. Where did you see it [163]

A. The records of lineage were available on Mr. Tobin's desk at all times.

Q. Were they available to you? A. Yes.

Q. Did you see the lineage for the month of March, 1940? A. Yes.

Mr. Sokol: Will you mark this Board's Exhibit 17 for identification?

(Thereupon, the document referred to was marked as Board's Exhibit No. 17, for identification.)

Mr. Sargent: May I see that?

I object to the introduction of this document unless the proper foundation is laid. I object to it now.

(Testimony of Leonard Lugoff.)

Q. (By Mr. Sokol) Where did you see the figures for lineage which are listed on Board's 17 for identification?

Mr. Sargent: He didn't say he did see them.

Q. (By Mr. Sokol) Did you ever see those figures? A. Yes.

Q. Where did you see them?

A. They were computed from Tobin's records for the ads and lineage report for the month of March.

Mr. Sargent: I object to his saying "computed" unless they are the exact figures and he can show how they got from the original on Mr. Tobin's desk to this particular exhibit.

Mr. Sokol: This is not an original, this is just a [164] carbon.

Trial Examiner Whittemore: What is the document?

Q. (By Mr. Sokol) What is this document?

A. It is the production record in ads and lines of the outside sales people in classified.

Q. Did you get that up yourself? A. No.

Q. Can you tell us what your production and lineage was in 1940, in March of 1940?

Mr. Sargent: That is of your own knowledge. I object to it being taken off of this document.

Q. (By Mr. Sokol) Well, will this refresh your recollection?

A. I kept an accurate, a fairly accurate check of my lineage all the time I was there.

Q. Is that an accurate reflection of it?

(Testimony of Leonard Lugoff.)

A. Yes.

Q. What was your lineage?

Mr. Sargent: Just a minute. I have no objection to his giving it either from his own memory or from any properly qualified document but this document——

Mr. Sokol: Your records are the best so I will withdraw that. We would like to have your records.

Mr. Sargent: We told you we would give you them.

Mr. Sokol: Well, I will let it go until tomorrow morning and then we can get the total lineage. May this be [165] off the record?

Trial Examiner Whittemore: Yes, off the record.
(Discussion off the record.)

Trial Examiner Whittemore: On the record.

Q. (By Mr. Sokol) I show you here the records of the company for the week ending March 7, 1940. Now, is that correct that you produced 120 ads, 533 lines? A. That is correct.

Mr. Sargent: 120 ads?

Mr. Sokol: 120 ads and 533 lines.

Mr. Sargent: Thank you.

Q. (By Mr. Sokol) This report here for the week ending March 7, 1940, first it says, "Salesmen." Does that mean outside salesmen?

A. They are all outside salesmen. That also includes the manager, Mr. Tobin.

Q. Now, the phone room, that is a separate department? A. That is a separate end.

(Testimony of Leonard Lugoff.)

Q. What do they do? Get ads off the phone?

A. Yes.

Q. Then there is "Voluntary."

A. The ads that come in without the phone room or salesmen going after them.

Mr. Sokol: I will offer that as Board's next in order.

Trial Examiner Whittemore: Is that the one that you [166] had marked 17 for identification?

Mr. Sokol: These are all new documents. I should have had that marked. I am going to offer at this time the company's reports on lineage in March by these outside salesmen as Board's 18A, B, and C and D for those four weeks.

Mr. Sargent: Your Honor, I have no objection to their being admitted but before any weight is given to them I would like to have the company through its appropriate officers explain what is meant by them. I see certain figures there but I have never had them explained to me and I am sure your Honor would like to have them explained to you.

Trial Examiner Whittemore: Yes, of course.

You have no objection to their being entered in evidence?

Mr. Sargent: No.

Trial Examiner Whittemore: They may be received.

(The documents referred to were marked as Board's Exhibits Nos. 18A, B, C and D, and were received in evidence.)

BOARD Exhibit 18-A

CLASSIFIED ADVERTISING DEPT. COMMISSION REPORT

WEEK ENDING March 7 19 40

SALESMEN

Form CL-37

NAME	CASH ADS	SALARY	ADS	LINES	COMM.	BONUS	Total Comm.
J. M. Reid			233	2190	W.D. 2.10		37.28
P. W. Allen			82	350		OS. -.05	(7.77) 11.50
M. Mc Keller			43	254			(5.51) 14.00
L. S. Lugoff			120	533	.30	OS. -.30	(9.22) 14.00
J. Starling			11	48			
J. R. Jofin			38	267			
NATIONAL LABOR RELATIONS BOARD							
CASE NO. <u>SA-C-374</u> EXHIBIT NO. <u>18-A</u>							
IN THE MATTER OF <u>City News</u>							
DATE <u>11/14/40</u> BY <u>Lugoff</u>							
DANIEL W. ROSS, OFFICIAL REPORTER							
BY <u>Van Hise</u>							

PHONE ROOM

F. Vessels	.80	467	1163	.20	OS. -.10	18.61
F. Whitebrook	1.05	454	1069		OS. -.10	17.05
E. Lovell	.60	281	814		OS. -.25 DH. -.15	(10.63) 14.00
F. Davis	.30	339	1123	.40	OS. -.30	15.59
M. Speer	2.00	430	991		OS. -.50 PH. -.50	15.20

VOLUNTARY

J. Johnson				.43	OS. -.05	.38
H. Brichow				.75	OS. -.10 DH. -.20	.45
L. Weiss				.04		.04
M. Schreiber	<u>Sales</u> 22.44			5.61	<u>Subscribed</u> 5.61	5.61

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BOARD EXHIBIT 18-B

CLASSIFIED ADVERTISING DEPT. COMMISSION REPORT

126
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WEEK ENDING March 14 19 40

SALESMEN

NAME	CASH ADS	SALARY	ADS	LINES	COMM.	BONUS	Total Comm.
C. M. Reid			239	2037	N.D. 2.40		35.35
P. W. Allen			85	393			(8.71) 11.50
M. McKellar			47	531			(11.02) 14.00
L. S. Lugoff			129	525	N.D. .30	O.S. - .95	(8.52) 14.00
J. S. Starling			15	51			
J. R. J. Lin			46	273			
<p>NATIONAL LABOR RELATIONS BOARD CASE NO. <u>10-107</u> BOARD <u>X</u> EXHIBIT NO. <u>18-B</u> IN THE MATTER OF <u>City of New York</u> <u>11/14/40</u> WITNESSES <u>Lugoff</u> DANIEL W. ROSS, OFFICIAL REPORTER BY <u>Van V. R.</u></p>							

PHONE ROOM

J. Vessels	1.40		434	982	N.D. .20	O.S. -.20	15.89
J. Whitcomb	1.45		408	1018		O.S. -.30 P.H. -.15	15.64
E. Powell	.75		288	817		O.S. -.05	(11.28) 14.00
J. Davis	.40		300	981	N.D. .40	O.S. -.30	12.97
M. S. Speer	1.00		439	1044		O.S. -.10	15.53

VOLUNTARY

J. Johnson	.10				.62	O.S. -.05	.67
H. Britton					.84	O.S. -.15	.69
A. Weiss	.05				.10		.15

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BOARD EXHIBIT 18-C

CLASSIFIED ADVERTISING DEPT. COMMISSION REPORT

18-C

WEEK ENDING March 21 1940

Form CL-37

SALESMEN

NAME	CASH ADS	SALARY	ADS	LINES	COMM.	BONUS	Total Comm.
B. M. Reid			242	2107	W.D. 4.00		31.09
P. W. Allen			93	447			(9.87) 11.50
W. H. K. Lee			70	792			16.54
L. S. Goff			159	647	W.D. .30	O.S. -1.50	(10.10) 14.00
J. S. Tamm			27	116			
E. L. Tate			46	334			

NATIONAL LABOR RELATIONS BOARD
CASE NO. 101-1391
EXHIBIT NO. 18-C
11/14/40
C. W. Ruggoff
Van Vleet

PHONE ROOM

F. Nessels	.91		425	925	W.D. .50	AS -.10	15.86
F. Whiteink	1.75		386	952		O.S. -.35	14.69
G. Torkle	.5		258	787		O.S. -.05 DH. -.25	(10.33) 14.00
F. Davis	.5		252	817	W.D. .40	O.S. -.60	9.94
M. Spear	.70		426	967		O.S. -.30 PH. -15	14.03

VOLUNTARY

W. H. K. Lee	.25				.59		.64
L. S. Goff	.25				1.76		1.81
M. Spear	.10				.10		.20

BOARD EXHIBIT 18-D

CLASSIFIED ADVERTISING DEPT. COMMISSION REPORT

124
180

WEEK ENDING March 28 1940

SALESMEN

Form CL-37

NAME	CASH ADS	SALARY	ADS	LINES	COMM.	BONUS	Total Comm.
J. M. Reid			227	2730	W.B.	OS. - 10	45.12
P. W. Allen			116	718			15.52
H. Mc Kellar			62	652			(13.62) 14.00
L. S. Bugoff			140	713		OS. - 10	(12.30) 14.00
F. S. Stirling			22	82			
L. P. Coffin			47	283			
NATIONAL LABOR RELATIONS BOARD							
CASE NO. <u>EX-107</u> BOARD BY <u>EX-110</u> EXHIBIT NO. <u>18-D</u>							
IN THE MATTER OF <u>City of New York</u>							
DATE <u>1/14/40</u> WRITES <u>Lugoff</u>							
DANIEL W. ROSS, OF RECORD, REPORTER BY <u>Van Vlack</u>							

PHONE ROOM

F. Vessels	1.15		396	1012		OS. - .05	15.67
F. Whitlock	1.25		466	1223		OS. - .15	19.69
S. Lorell	.25		274	824		OS. - .05	(10.67) 14.00
F. Davis	1.40		244	963		OS. - .55	12.61
M. Spicer	1.25		434	1000		OS. - .55 50% deducted	15.09

VOLUNTARY

J. Johnson					.70	OS. - .10	.60
H. Bruchow					.91	OS. - .15 1.15 L. R. R. R. R.	.76
L. Weiss	.05						.05

(Testimony of Leonard Lugoff.)

Q. (By Mr. Sokol) Referring to Board's 18A, from what I can observe——

Mr. Sargent: 18A or 17A?

Mr. Sokol: 18A.

Q. From what I can observe, you were the second highest man in the production of ads, is that right? A. Ads and lines. [167]

Q. Do you know how these other men were paid——

Mr. Sargent: I ask that be stricken on the ground we don't know whether the same basis was used for Lugoff, the witness, and the other people, and until the records are explained we don't know what they mean.

Trial Examiner Whittemore: This is the witness' interpretation of those records. When Mr. Tobin or Mr. Young or whomever you are trying to call comes he can give his explanation. This witness has worked in the department for some time and I assume that he knows the basis for these records.

Mr. Sargent: He hasn't been qualified as to these records.

Trial Examiner Whittemore: Well, he is looking at them now.

Q. (By Mr. Sokol) Let me ask you this: What is the rate for classified ads in the paper?

A. The rate fluctuates from a contract rate of 16 cents a line daily, 23 cents on Wednesday, which includes your Advertiser, on up until I think, if I remember correctly the one time rate is 30 cents.

(Testimony of Leonard Lugoff.)

Q. Now, this record here does not reflect what income you brought into the paper through the sales of these ads? A. Yes, it does.

Q. How does it show that?

A. Well, it reflects the lineage, it is the advertising [168] brought in. It doesn't reflect what rates they paid for it, no.

Q. Now, do you know how Starling was paid?

A. I imagine Starling is the only one I don't know how he is paid there.

Mr. Sargent: I object to testimony based on imagination.

Trial Examiner Whittemore: Yes.

Q. (By Mr. Sokol) Do you know how McKellar was paid?

A. McKellar was paid \$10 base pay and 2 cents a line.

Q. And he got the \$24 guarantee too?

A. It is a woman. Yes.

Q. Do you know if she ever made her guarantee? A. That I don't know.

Q. Was she a member of the Guild?

A. No.

Q. How about Allen, how was he paid?

A. Allen got \$12 base pay and 2 cents a line commission and a cent an ad. Marjory McKellar got a cent an ad too.

Q. Was he a member of the Guild?

A. No, he wasn't.

(Testimony of Leonard Lugoff.)

Q. How about Reid, how was he paid?

A. \$15 base pay and a cent and a half a line and a cent an ad.

Q. Is he a member of the Guild? A. No.

[169]

Q. Toward the end of March, 1940, was your lineage increasing or decreasing?

A. My lineage increased steadily from December on until March, 1940.

Q. Are there fluctuations in the period of a year? A. Yes, there is.

Q. What is that caused by?

A. Why, it is usually periodical. It is caused by Christmas, during your Christmas season classified as a rule falls down. During the summer people go away on a vacation and your classified lineage shows the depression too.

Q. Could you account for your production not being high by reason of your sleeping on the job? Did you ever do that? A. No, sir.

Q. Do you remember this occasion when Mr. Palmer came by? A. No, I don't.

Q. When he came by your car?

A. No. That is entirely news to me.

Q. Were you ever sleeping in his presence?

A. No, not that I am aware of.

Q. Or dozing? A. No.

Trial Examiner Whittemore: That raises the question if the man were asleep how he would know if Mr. Palmer was around. [170]

(Testimony of Leonard Lugoff.)

Q. (By Mr. Sokol) Did you receive any complaints from Tobin about your decline in production?

A. Around—the decline in production you mean around my first firing? In 1938?

Q. No, thereafter.

A. No. There was no decline in production apparently that I know of during that year and a half that I was employed before my firing.

Q. Can you explain what the practice was in the classified advertising department in your paper and other papers; that is, did an employee have to make his guarantee in order to be retained?

A. Well, on the Citizen News the basis of figuring sales cost was on a 25 percent basis; that is, if your sales cost was around 25 percent, they figured that was a fair cost and brought them a fair return on your endeavor.

Q. Were you told that by the management?

A. I was not directly told that but I was hired three different times on a 25 percent commission.

Q. If you were making 25 percent commission at the time of your discharge would you have made your guarantee? A. No.

Q. What?

A. No. I wouldn't have made it. I was making around 25 percent at the time of my discharge and I wasn't making my [171] guarantee.

Q. Previously when you had been on a 25 percent basis, had you ever made your guarantee? You

(Testimony of Leonard Lugoff.)

remember you testified that you had been on a guarantee with the Citizen for awhile previously?

A. There was no guarantee in effect.

Q. That was the News, was it, where the guarantee was, a \$35 a week guarantee?

A. I beg your pardon. You mean back in '26 and '27?

Q. Yes.

A. No, as I stated then, about two or three months out of the two years I was employed, that there was only two or three months that I made over and above my guarantee.

Q. Well, is that common in the business?

A. Yes.

Q. Did Mr. Young tell you that you would have to make your guarantee or you would be fired?

A. Not that I can recall.

Q. Did he ever tell you anything of the kind?

A. Mr. Young never laid any laws down to me. Mr. Tobin was my immediate manager and if anything was said at all, Mr. Tobin would have said it.

Q. Did Mr. Tobin ever tell you that?

A. Not that I recall.

Q. Now, after rejoining the Guild, did you attend the [172] negotiations between the management and the Guild?

A. I attended every one but one.

Q. Now, at these negotiation meetings, there were present representatives of the management: is that correct?

A. That is correct.

(Testimony of Leonard Lugoff.)

Q. And representatives of the Guild; is that correct? A. That is correct.

Q. And representatives of the Guild; is that correct? A. Yes, sir.

Q. And observers? A. Yes, sir.

Q. Now, were those observers members of the Guild? A. Yes, they were.

Q. Was there ever any exception to that?

A. There never was in my knowledge anybody attending the Guild negotiations that wasn't a member of the Guild.

Q. How many of those meetings do you recall attending? A. Oh, five or six.

Q. Some of them were *doing* the year 1939?

A. They were all during the year—that is, most of them were during the year 1939. There were some during 1940; that is, grievance committees.

Q. After you got your guarantee, did you do anything further with respect to attempting collective bargaining for your department? [173]

A. Yes. I made up a contract similar to the Herald's contract, the Herald-Express contract, trying to bring into effect just what the classified people, the classified department would gain by signing a petition, stating my theory of wages for the girls and the wages for the outside sales people and different revisions so far as territory was concerned and so forth.

Q. Was that the contract drawn up providing for the parties, the Citizen-News Company and the Guild?

(Testimony of Leonard Lugoff.)

A. Yes, that was written up as near in legal form as I could make it.

Mr. Sargent: I will object to that unless it was presented to some representative of the management.

Q. (By Mr. Sokol) What did you do with the contract?

A. I took it around to the people that I thought were interested in having the Guild act as their bargaining agent and showed them just what we could ask for if we got the Guild to act as bargaining agent.

Trial Examiner Whittemore: I think the basis of your objection was whether or not it ever reached the management.

Mr. Sargent: And at this time I move to strike what he said with regard to this, and also the petition, on the ground there is no evidence in the record that either one of them ever were brought to the knowledge of the management.

Trial Examiner Whittemore: Well, I will deny the motion [174] as to the petition. I withhold ruling in regard to this contract until something further is shown.

Mr. Sokol: It does show the union activities. We will show it got to the management's ears.

Mr. Sargent: Do you deny it with regard to the petition without any evidence at all to show it was ever brought home to the management. The evidence is that he took it around to certain employees.

(Testimony of Leonard Lugoff.)

Trial Examiner Whittemore: I will deny the motion on the basis of the fact that there is some showing, at least sufficient enough for its admission into evidence. As to what weight will be given to it, I shall not determine until I have the whole record before me. There is some evidence showing that he was getting the petition signed during working hours when either Mr. Tobin or Mr. Young was around there. That might not prove absolutely that the management knew about it, but at least is an inference that they did. I am not going to strike it from the record.

Now, if Young and Tobin deny they knew anything about it, why, that is something to be taken into consideration as well.

I have denied your motion to the petition incident. Now, so far as this incident is concerned, I am reserving ruling until I learn more about it.

Q. (By Mr. Sokol) Now, prior to the time you were reinstated in August, 1938, and when you had been a member of the [175] Guild before the strike, had you attended any negotiation meetings?

A. No.

Q. Now, you drew up this contract and you showed it to the people in your department?

A. Yes, to some of the people in my department.

Q. Did you have any quarrels with anyone connected with the management over that?

Trial Examiner Whittemore: You are now referring to that contract?

(Testimony of Leonard Lugoff.)

Mr. Sokol: Yes.

A. No quarrels in connection with the contract.

Q. Now, about this time when you were doing that, did you have any altercation, by that I mean any heated conversation, in the presence of George Palmer?

A. Yes, I had an argument with——

Mr. Sargent: With regard to what, Mr. Sokol?

Q. (By Mr. Sokol) With regard to unions and your activities?

Mr. Sargent: This is not with regard to this particular contract?

Mr. Sokol: No.

Mr. Sargent: I renew my motion to strike on the grounds that this particular contract was discussed only with certain employees in his own department and there is no evidence that [176] the management had any knowledge about it.

Trial Examiner Whittemore: Do you propose to make any other showing that it was known to the management?

Mr. Sokol: Well, yes, we are going to tie it in. This is a small concern and they only have a half a dozen people working in the department.

Trial Examiner Whittemore: I will still reserve decision on your motion to strike.

Q. (By Mr. Sokol) When did this argument occur? A. —in the month of August, 1939.

Q. What occurred?

(Testimony of Leonard Lugoff.)

A. Well, it was an argument which started by Johnny Badovinac saying that the management was going to close down the plant if the Guild in its negotiations for a new contract didn't act reasonable.

Mr. Sargent: You didn't get the date of that, Mr. Sokol.

Q. (By Mr. Sokol) When was that?

A. August, 1939.

Q. Who was present?

A. Well, there was a number of people present. The only ones that I remember distinctly at the time were George Palmer and Johnny Badovinac.

Q. Is George Palmer related to the owner?

A. Well, he is the son of O. T. Palmer, one of the owners.

Q. Did this occur adjacent to Mr. Young's office?

[177]

A. It occurred about 15 feet from Mr. Young's office.

Q. Right out there in the room? A. Yes.

Q. Where you assembled? A. Yes.

Q. What did you say to him?

A. Well, I told Johnny, I said—I knew him very well and I said, “Johnny, I have been out to all these negotiations and the Guild isn't asking anything unreasonable up there at all. All they are asking for is merely a small increase in wages and that Helen Brichoux be put on the——”

(Testimony of Leonard Lugoff.)

Mr. Sargent: Was this statement made in the presence of George Palmer?

The Witness: Yes.

Mr. Sargent: No objection. You said George Palmer was the son of Judge Palmer's brother?

The Witness: O. T. Palmer, yes.

Mr. Sargent: All right. No objection.

The Witness: May I go ahead?

Mr. Sokol: Yes.

A. I said, "I have been up to all these negotiations, and that the Guild hasn't been asking for any unreasonable things." That they were merely asking for a very small increase in wages, and that Helen Brichoux and Karl Schlichter be protected, and that one of the office boys be classified as [178] a reporter, and I said, "You are spreading a rumor that the plant is going to close up," and that is unfounded.

He said, "Well, it comes from the management."

I said, "Listen, all you are doing by spreading a rumor like that is getting people scared about their jobs and making people in the Citizen News hate the Guild." I said, "If you persist in anything like that, all it means to me is that you are a company stooge."

So he kept on denying it and George Palmer at that time stuck his nose in and said, "Well, he knew that was a fact and he was willing to gamble on it."

Mr. Sargent: I didn't understand the part about the company stooge.

(Testimony of Leonard Lugoff.)

The Witness: I said if he kept saying such a thing came from the higher-ups, as Johnny said it did, I accused Johnny of being a company stooge because all that rumor was doing was scaring people and having them hate the Guild.

Q. (By Mr. Sokol) What did Palmer say?

A. Well, George Palmer backed up Johnny Badovinac.

Q. In what?

A. In effect that he was willing to bet money that such a thing was going to happen.

Q. What would happen?

A. That the plant would close down if the Guild persisted in their negotiations. [179]

Q. Did Badovinac accuse you of doing things in regard to promoting unionism?

A. No, John Badovinac didn't.

Q. Not at any time?

A. Johnny Badovinac never accused me of promoting. He knew that I was a member of the Guild. He knew that I attended all the meetings because he used to ask me what took place at these meetings.

Trial Examiner Whittemore: Are we going to have this witness on much longer?

Mr. Sokol: Yes.

Trial Examiner Whittemore: Then I suggest this is a good point to recess for today. We will reconvene tomorrow morning at 9:30.

(Testimony of Leonard Lugoff.)

(Whereupon, at 4:30 o'clock p. m., the hearing was adjourned in the above-entitled matter until 9:30 a. m., Friday, November 15, 1940.)

[180]

PROCEEDINGS

Trial Examiner Whittemore: The hearing will please come to order.

Mr. Sargent: Before you go on, you asked me if I would prepare a short stipulation providing for the concession with regard to the company having sufficient funds.

Mr. Sokol: Do you have that in written form? May we go off the record?

Trial Examiner Whittemore: Yes.

(Discussion off the record.)

Trial Examiner Whittemore: On the record.

LEONARD LUGOFF,

a witness called by and on behalf of the National Labor Relations Board having been previously duly sworn, was examined and testified further as follows:

Direct Examination

(Continued)

Q. (By Mr. Sokol) To your knowledge, did you ever go to sleep while you were supposed to be working for the Citizen?

A. Emphatically not. And I might state at the present time that yesterday that sleeping was

(Testimony of Leonard Lugoff.)

treated as a joke, but I want to state emphatically that I consider it seriously now, that I never went to sleep on the job and if I were contemplating anything like that I certainly wouldn't go to sleep in front of the Citizen-News on Wilcox and Selma.

Q. That is not the question. You say you didn't?
[182]

A. Yes.

Q. Now, this business of building up the classified ad business, how is that done?

A. Well, you cover the territory. You go out and the main object was to try to sell monthly accounts, accounts that ran until ordered stopped. They are on a monthly basis and they usually ran month to month. Some ran for a period of years.

Q. Let me ask you: Did you build up this territory?

A. Yes, I did. When I started on the territory there was no accounts to my credit at all.

Q. As a matter of fact, were some of those accounts that you got for a month or so, or longer, that is, contract accounts?

A. The main ideal in selling advertising, classified advertising, is to get as many "until forbid" accounts as possible. That is accounts that run four months or two months or a year.

Mr. Sokol: Mark this 18E for identification.

(Thereupon, the document referred to was marked as Board's Exhibit 18E, for identification.)

Q. (By Mr. Sokol) I show you Board's 18E for identification. Now, that is an original record of the company, and doesn't that show that even after you left your paper and before anyone else was on your job that the accounts which you had gotten under contract and otherwise continued to run?

A. Yes, it does. It is just about the same lineage as the [183] preceding week.

Q. In other words, that was business that you built up that came in automatically?

Mr. Sargent: These are very leading questions, your Honor. I don't want to impede counsel's examination but he is on direct and not cross.

Trial Examiner Whittemore: Well, I suggest at any time you feel that an objection is justified that you voice it and I will rule upon it.

Mr. Sokol: I offer this as Board's 18E.

Mr. Sargent: May I see it, please? I have no objection to it.

Trial Examiner Whittemore: It will be received.

(Thereupon, the document heretofore marked for identification as Board's Exhibit No. 18E, was received in evidence.)

BOARD EXHIBIT 18-E
CLASSIFIED ADVERTISING DEPT. COMMISSION REPORT

WEEK ENDING April 4 1940

Form CL-37

SALESMEN

NAME	CASH ADS	SALARY	ADS	LINES	COMM.	BONUS	Total Comm.
J. M. Reed			232	2101	W.D. 2.30		36.14
P.W. Allen			98	567			12.32
M. Mc Keller			53	532			(11.17) 14.03
L.S. Ruzoff	3/30/40 per paper		118	585			
J. Starling			22	69			
J.R. Tolin			45	229			
<p style="text-align: right;">NATIONAL LABOR RELATIONS BOARD</p> <p>CASE NO. <u>W.C. 334</u> <u>X</u> <u>18-E</u></p> <p>IN FILE MAY <u>11/15/40</u> <u>City of Reno</u></p> <p>DATE <u>11/15/40</u> <u>Ruzoff</u></p> <p style="text-align: right;"><u>Van Vleet</u></p>							

PHONE ROOM

J. Vessels	1.60		399	981	W.D. .20	OS. -.35	15.41
J. Whitebrook	1.25		472	1327		OS. -.55	20.14
E. Powell	.70		298	896		OS. -.35	(12.26) 14.00
J. Davis	.40		289	893	W.O. .40	OS. -.60	11.19
M.S. per	2.00		486	1089		OS. - 1.05 DH. - .15	17.31

VOLUNTARY

J. Johnson					.50		.50
H. Brichoux	.10				.85	OS. -.10	.85
L. Weiss							
M.S. Schenker	Sales 35.14				8.79		8.79
					4/4/40		

(Testimony of Leonard Lugoff.)

Q. (By Mr. Sokol) Will you explain then to the Examiner if a new man were to come on your job, what would occur to those accounts?

A. Well, the new man—the main thing on the job is selling and getting classified advertising and after they have been sold the next thing is to service them, which is relatively easy. In other words, a man coming on if he were handed my accounts on my territory, his main job would be merely servicing. [184]

Q. How long did it take you to build up the accounts?

A. I worked on this particular territory seven years.

Q. When you were last on the stand last night you spoke about George Palmer. What is his position with the company?

A. George Palmer at the time that I worked with the Citizen News was classified manager in charge of classified credits, or credit manager in charge of classified credits.

Q. Just prior to your discharge, your final discharge, did you attend a conference at which there was present members of the management and the Guild?

A. There was such a conference in relation to Pat Killoran's grievance complaint.

Q. Did you attend that? A. Yes, I did.

Q. Was that in the month of March, 1940?

A. That was in the month of March, 1940.

(Testimony of Leonard Lugoff.)

Q. Also just prior to your discharge did you circulate another petition around the plant?

A. Yes, I did.

Mr. Sargent: I object to that answer and ask that it may go out unless some date is given or approximate time.

Trial Examiner Whittemore: I presume that is preliminary.

Q. (By Mr. Sokol) Yes. When was it that you did that? A. During the month of March.

Q. Now, can you fix the time? [185]

A. Around the 15th of the month.

Mr. Sokol: Will you mark this Board's Exhibit 19 for identification.

(Thereupon, the document referred to was marked as Board's Exhibit No. 19 for identification.)

Mr. Sargent: I assume you are going to continue with regard to the petition further?

Mr. Sokol: Yes, here it is.

Q. Is this the petition, Board's 19 for identification? A. Yes, it is.

Mr. Sokol: I offer that.

Mr. Sargent: No objection.

Trial Examiner Whittemore: It will be received.

(Thereupon, the document heretofore marked for identification as Board's Exhibit No. 19, was received in evidence.)

(Testimony of Leonard Lugoff.)

BOARD EXHIBIT 19

We, the undersigned, consisting of a constituted majority of workers of the Classified Department of the Hollywood Citizen News, believing, as the management has stated from time to time, that all workers of all departments in the Citizen News are entitled to the Rights and Privileges obtained by the Editorial department in its contract with the management, and, taking the management at its word when it further states that they the Citizen News, although believing that all the workers of all departments are entitled to these Rights and Privileges, will not bind themselves in any way to recognize such Rights and Privileges until the time that such departments do obtain a majority of workers in their respective departments and do then petition a bargaining agent under the National Labor Relations Act.

Therefore we do hereby petition the Los Angeles Newspaper Guild to act as the bargaining agent of the Classified Department of the Citizen News and do authorize them to obtain written commitment of such Rights and Privileges in a separate contract.

Signed:—

Q. (By Mr. Sokol) Now, where did you circulate that?

A. In the classified department.

(Testimony of Leonard Lugoff.)

Q. To everybody or was it to a few?

A. Why, that particular petition, I enlarged my scope a little bit. The other petitions were circulated just a few—to just a few, but this one, I was enthused about, and I spoke to people that I never did speak to before on the Guild bargaining for classified.

Q. Would you say that you covered practically the entire [186] classified department?

A. Practically the entire department.

Q. Was Tobin there during these times on occasions? A. Yes.

Mr. Sargent: That was a very leading question, your Honor.

Mr. Sokol: I don't see anything leading in that particular question. I asked the man who was present.

Mr. Sargent: You didn't ask him who was present. You asked him if Tobin was present on various occasions.

Trial Examiner Whittemore: The point is you didn't do that. I will sustain the objection to that question.

Q. (By Mr. Sokol) Well, who was present during these times when you were circulating the petition? Give us the names of the people.

A. Well, Florence Whitebook, Florence Davis, Helen Brichoux, Mrs. Bovee, Philip Allen, and Mr. Tobin during the time was in and out of the office, in and out of his office.

(Testimony of Leonard Lugoff.)

Q. Are those all of the people or just some of them? A. Just some of them.

Trial Examiner Whittemore: May I ask at this point if any of those that you named besides Tobin were in any way connected with the management? Whitebook, Davis, and Allen?

The Witness: You mean in a business or social way?

Trial Examiner Whittemore: I mean if any of them were [187] connected in a supervisory way.

The Witness: Florence Davis is head of the phone room.

Trial Examiner Whittemore: What is that?

The Witness: She is supervisor of the phone room.

Trial Examiner Whittemore: Supervisor of the phone room? A. Yes.

Trial Examiner Whittemore: Thank you.

Q. (By Mr. Sokol) By the way, did she tell you anything about your circulating that petition?

A. I don't quite understand the question.

Q. Let me ask you: When you showed her that particular petition——

Mr. Sargent: Just a minute, your Honor. Might I suggest that the question be if he had a conversation with regard to this.

Q. (By Mr. Sokol) Did you show her the petition? A. Florence——

Q. Whitebrook.

(Testimony of Leonard Lugoff.)

A. Florence, yes, I showed Florence Whitebrook the petition.

Mr. Palmer: You were talking about Davis, however.

Mr. Sokol: I had the names confused.

Trial Examiner Whittemore: I had them confused myself. I thought it was Florence Davis.

The Witness: It is Florence Davis who supervises the [188] phone room.

Q. (By Mr. Sokol) Did she comment on the petition?

A. Only that she thought it was a petition that——

Mr. Sargent: I object unless she said she thought this.

Q. (By Mr. Sokol) What did she say? You have told us what she said?

A. That she thought a petition like that would be a——

Q. Did she say she thought that?

A. She said a petition like that would go over a good deal faster than the previous petitions.

Q. Did you speak to Florence Whitebook?

A. Yes, I did.

Q. What did she say?

A. That was the first occasion that I spoke to Florence Whitebook. As I said, I was enthused about the petition and Florence Whitebook had held the position of one of the strikebreakers. She was on Helen Brichoux' job and up to this time

(Testimony of Leonard Lugoff.)

I had never spoke to her about having the Guild bargain because she was very well satisfied. In other words, she owed the position she occupied to the strike.

Q. She had a striker's job you mean?

A. Yes.

Q. What did she say?

A. And she says, "Rudolph," she says, "why do you want to do something like this. You know you are sticking your neck [189] out by handing around the petition." She said, "Why don't you let somebody else do that?"

Q. Do you know Frank Gilman?

A. Yes, I do.

Q. What was his position with the company?

A. He was one of the credit managers in charge of part of the display credits.

Q. Did he speak to you about your activities in circulating these petitions?

Mr. Sargent: Your Honor please, I have an objection to any testimony here which is said by any employee who represented the management. I do object to such conversations that took place among the employees, which wouldn't be binding upon the management.

Mr. Sokol: Well——

Trial Examiner Whittemore: As I understand it, you deny that this Gilman was in any way connected with the management?

(Testimony of Leonard Lugoff.)

Mr. Sargent: I certain deny that Florence Whitebook was, and I ask Florence Whitebook's remarks go out as not binding upon the management.

Mr. Sokol: Well, the only purpose of having Florence Whitebook's statement in, Mr. Examiner, is to show what this witness was doing. I mean to show that he was engaged in Guild activities. It doesn't put the onus on the management [190] if they didn't know about it.

Mr. Sargent: It is putting something in when there is nothing in the evidence that shows they knew anything about it. On that ground I move that the testimony of the witness with regard to Florence Whitebook and her remark about his circulating this petition be stricken.

Trial Examiner Whittemore: According to my notes the remark that you now refer to was her suggestion that he lay off and her asking him why he stuck his neck out.

Mr. Sargent: Yes, that is a remark of a fellow employee not connected with the management in any way.

Trial Examiner Whittemore: That remark may be stricken.

Q. (By Mr. Sokol) Tell us when did you have this conversation with Mr. Frank Gilman?

A. Around the month of August.

Q. What year? A. 1939.

(Testimony of Leonard Lugoff.)

Q. Where did it take place?

A. It took place near his desk.

Q. Who was present?

A. George Palmer sits right across.

Q. Did he take part in the conversation?

A. No.

Q. Did he overhear the conversation, if you know?

A. I imagine—yes, he couldn't help but overhear it. [191] He is just a few feet away.

Mr. Sargent: Unless the witness can show that George Palmer in some way took part in it or it is definite that he did know what took place, I object to any conversation between this witness and any other employee with regard to it.

Trial Examiner Whittemore: This is the conversation with Gilman, as I understand it.

Mr. Sokol: Frank Gilman.

Trial Examiner Whittemore: All he has testified to is that George Palmer sat nearby and he believed he was near enough to hear it.

Mr. Sargent: Well——

Trial Examiner Whittemore: Now, on what basis do you object to the conversation that he had with Gilman?

Mr. Sargent: Well, I think it is the same as with Florence Whitebook. He doesn't claim that Gilman is a member of the management, does he? Mr. Gilman isn't a supervisory employee.

(Testimony of Leonard Lugoff.)

Trial Examiner Whittemore: I raised that question awhile ago when you said you had no objection to that.

Mr. Sargent: No, I have asked Judge Palmer whether Gilman was a supervisory employee and I understand he was not.

Trial Examiner Whittemore: That is the matter for you to bring out in your probe. Certainly a fair inference may be drawn from this witness' testimony that he is in some way [192] connected. While he may not be an officer of the company, in being in charge of display credits, it seemingly would give him some standing as a supervisory employee. I suggest that you tell just exactly what Mr. Gilman's duties were.

Q. (By Mr. Sokol) What are Mr. Gilman's duties?

A. Mr. Gilman is credit manager in charge of part of display credits.

Q. What does he do?

A. He passes on accounts that are brought to him by the display people for charging.

Trial Examiner Whittemore: You mean by that that he can accept or reject an account that is brought in by a solicitor?

The Witness: Yes.

Trial Examiner Whittemore: Go ahead with the conversation.

Q. (By Mr. Sokol) Give us the conversation.

(Testimony of Leonard Lugoff.)

A. He told me that it would be better for me to quit sticking my nose in Guild affairs and showing less activity because he had it pretty straight that the management was going to weed out everybody connected with the Guild and he also made the statement that——

Mr. Sargent: Just a minute, please. Thank you very much.

Q. (By Mr. Sokol) Continue. [193]

A. And he also made the statement that after the next Presidential election that there would not be any more National Labor Relations Board. X

Mr. Sargent: What did you say?

The Witness: No more National Labor Relations Board.

Mr. Sargent: Thank you. I couldn't hear you.

Q. (By Trial Examiner Whittemore) Mr. Gilman wasn't connected with the business forecast department, was he?

Q. (By Mr. Sokol) Now, that brings us up to the fateful date of March 30, 1940. This petition activity of yours was within a week or two prior to that date? A. Yes.

Q. And on March 30, 1940, did you go to work as usual?

A. My working week ended on Friday?

Q. Oh.

A. And the 30th was Saturday.

Q. Friday were you notified by Tobin or anyone else?

(Testimony of Leonard Lugoff.)

A. No, there was nothing said about leaving my job, being fired. Tobin didn't make any remark, which was a little bit unusual because if he were firing a man—and I had this experience in 1938—he would call him to his office and tell me about it and ask him to arrange his territory and accounts so that the territory could be worked intelligently. Certain calls were to be made and certain copies to be made.

Q. He was your boss, wasn't he? [194]

A. He was my immediate boss.

Q. Did he ever intimate to you that you were going to be fired? A. No.

Q. There is now in evidence Board's Exhibit 7. You received that on March 30th? A. Yes.

Q. Now, I show you the envelope. Can you tell us what time you received this?

A. Well, it went to the post office at 8 p. m. Saturday, 8:00 o'clock at night.

Q. So then you received it sometime after that, by special delivery?

A. I received it at 10:00 o'clock, I think it was delivered at the house.

Q. 10:00 p.m.? A. 10:00 p.m.

Q. Saturday evening? A. Saturday night.

Q. Will you look at the original, and it is signed by—— A. Harlan G. Palmer.

Trial Examiner Whittemore: May I see that, please?

(Testimony of Leonard Lugoff.)

Mr. Sokol: Yes.

(Counsel hands document to the Trial Examiner.)

Q. (By Mr. Sokol) Now, after you received that, did you [195] come back down to the plant the following Monday?

A. The following Monday I came down to the plant at 8:30, the regular time to appear for work and went in to see Tobin and I said to Tobin, "I know this is as much of a surprise to you as it is to me and if you want me to, I have got a number of calls to make this morning. I have got copy to change and I will be glad to do that and give you a list of the accounts, when to service them, and when to see them."

Q. Did you do that?

A. He said, "Don't go out and make any calls but tell me who you are supposed to see and any changes of copy you have got, write it up and put it through."

Q. Did you work there that morning?

A. I worked up until 12:00 o'clock.

Q. Did you get paid for that?

A. No. I thought that was necessary and I just did it of my own free will.

Q. At the time of your discharge in your department were there any other members of the Guild?

A. There was only one. That was Helen Brichoux.

(Testimony of Leonard Lugoff.)

Trial Examiner Whittemore: Will you read that question and answer, please?

(Record read by the reporter.)

Trial Examiner Whittemore: Thank you.

Q. (By Mr. Sokol) Following that, did the Guild to your [196] knowledge put in a protest over your discharge?

A. Yes, they did. I was present when Mr. Sargent received that protest.

Q. What date was that?

A. That I think was about April the 10th.

Mr. Sargent: A little louder, please.

The Witness: I am not positive but I think it was April the 10th.

Q. (By Mr. Sokol) 1940? A. 1940.

Q. Where was that session held?

A. The session was held in the auditorium of the Citizen-News.

Q. Did Mr. Sargent tell you the reason for your discharge at that time?

A. He said he didn't know the reason. He had to take it up with the management and he answered later on. He answered the Guild I think through a letter.

Q. Did he at any time tell you those reasons which he set forth in the letter, tell you those reasons personally? A. No.

Q. Now, with respect to work in the classified. Could you do other work besides this outside solicitation? A. Yes, I had experience.

(Testimony of Leonard Lugoff.)

Mr. Sargent: Did he or could he? [197]

Q. (By Mr. Sokol) Could he?

A. I have had experience doing counter classified work and marking the papers for lineage computation and classified territory, yes.

Q. How about the phone work?

A. I have done phone work too.

Q. Receiving ads on the phone.

A. And soliciting over the phone.

Q. Do you know what they got, did they have a guarantee?

A. They had originally when they came to work for the Citizen-News they started at a \$10 guarantee, which they protested.

Q. You knew what they were getting last?

A. At last everybody was getting a \$24 guarantee. That went into effect when I took that matter up with Mr. Young.

Q. That included the phone people too?

A. That included everybody in classified.

Q. Did you have seniority over some of the people who were in the phone room?

A. Yes. You mean I was there longer?

Q. Yes.

A. In the employe of the company?

Q. Yes. A. Yes.

Q. With respect to the other employees, how many had been [198] there longer than you?

A. There were quite a number of them that had

(Testimony of Leonard Lugoff.)

been there longer. I would say at least half of the people had been there longer.

Q. And you had been there longer than half of the people? A. Yes.

Q. At the time of your discharge?

A. At the time of my discharge.

Mr. Sokol: Can it be stipulated at this time who replaced him, that another man was hired to replace him. Can we stipulate to that?

Mr. Palmer: Another man was transferred. A boy from the display desk was transferred, Wallie Sellers.

Q. (By Mr. Sokol) Now, about this man Sellers we just heard about, did you know what kind of work he did while you were working in classified?

A. He was on the copy desk and display.

Q. What does that mean?

A. It means he received the copy. He received it and passed it on to the composing room. They handed in their copy to him and he relayed it upstairs.

Q. Was he a solicitor of advertising?

A. No. To my knowledge he never did any soliciting.

Mr. Sokol: That is all.

Mr. Sargent: Your Honor, there are a few things here [199] that have arisen that I would like to have Judge Palmer ask about and then I will conduct the rest of the cross-examination. We will endeavor not to cover the same ground.

Mr. Sokol: Off the record.

(Testimony of Leonard Lugoff.)

Trial Examiner Whittemore: Off the record.

(Discussion off the record.)

Cross Examination

Q. (By Mr. Palmer) How many times, Mr. Lugoff, including the last time, had you been discharged by the Citizen, or the Citizen-News?

A. May I ask a question on that?

Q. Yes.

A. Would you count the firing in 1938 in that? Do you include that? Was that a firing?

Q. Well, you can count that, and enumerate the times.

A. Well, I would say three times.

Q. When were they?

A. One was in 1940, one was in August, 1938, and to the best of my recollection one was back in about, I would say, 1928.

Q. Were any reasons given to you in 1928 for your discharge?

Mr. Sokol: That is objected to as immaterial what happened way back there.

Mr. Sargent: If your Honor please, the records were gone into by counsel for the Board. I think that the president of the respondent has a right to inquire. [200]

Trial Examiner Whittemore: I do think it is a bit remote but on the other hand you have traced his employment further back than that.

(Testimony of Leonard Lugoff.)

Mr. Palmer: Last night or yesterday afternoon the witness left the impression that he had quit the Hollywood Citizen voluntarily to go over to work for the Hollywood News.

The Witness: That is right, I did. I restate that I quit the News voluntarily, or quit voluntarily to go to the News at higher—at higher pay.

Q. (By Mr. Palmer) That you were not discharged by the Citizen?

A. No, I was not discharged.

Q. Why did you say you were discharged in 1928?

A. There was a short period—now, I am hazy on this particular date. There was a short period I came back to work for the Citizen and I was discharged, but at no—it wasn't at the time that I quit the Citizen to go to the News.

Q. When was this that you came back to work for the Citizen?

A. It was merely a short time and I think it was some time between 1928 and 1931. There was a very short period in there that I worked and to the best of my recollection I was fired.

Q. Now, let me see. You left the Citizen in 1928 to go to work for the Hollywood News?

A. That is right.

Q. Then you left the Hollywood News to come back to—— [201]

A. A year later.

Q. A year later?

A. Yes.

Q. To come back to work for the Citizen?

(Testimony of Leonard Lugoff.)

A. To the best of my knowledge and that probably is what happened.

Q. Then you were discharged by the Citizen, is that a fact? The reporter can't hear your nod.

A. Yes, I would say I was fired at one time during that period.

Q. That was some time you think about 1930?

A. Before 1930.

Q. Before 1930? A. Yes.

Q. Approximately in 1929, some time?

A. Some time around there, a very short period.

Q. Then after that what did you do?

A. Well, after that I worked on the Beach papers for a short time and then I came back to the Citizen-News.

Q. And then you came back?

A. I beg your pardon. Then I came back to the News.

Q. The Hollywood News?

A. The Hollywood News.

Q. At that time there were two newspapers in Hollywood, one known as the Hollywood Citizen, and one known as the [202] Hollywood News?

A. That is right.

Q. And the Hollywood Citizen was owned by the people who purchased the Hollywood News?

A. That is right.

Q. Then at the time of the purchase of the Hollywood News in 1931, was it not? A. Yes.

Q. You started working for the Citizen-News?

(Testimony of Leonard Lugoff.)

A. I was working with the News at the time of the merger.

Q. Yes. At the time the Citizen bought the Hollywood News? A. That is right.

Q. You continued or you went to work then for the Citizen News? A. Yes.

Q. What was your compensation then?

A. 25 per cent commission.

Q. That meant what, Mr. Lugoff?

A. That meant 25 per cent of the advertising brought in that was passed on by the credit department to be billed, and 25 per cent of the cash ads, in other words, 25 per cent of the bulk of the advertising brought in.

Q. Was there any guarantee in connection with that? A. There was no guarantee at all.

Q. 25 per cent of any business that you produced? [203]

A. That is right.

Q. Was the amount determined as your compensation? A. Yes.

Q. How long did you work at that rate?

A. About a year.

Q. Then what did you do?

A. Then I voluntarily quit.

Q. What did you do after you voluntarily quit?

A. Well, I went to work for the Herald for a while working rentals.

Q. That is the Evening Herald?

(Testimony of Leonard Lugoff.)

A. The Evening Herald.

Q. Los Angeles? A. Yes.

Q. How long did you work for the Evening Herald? A. About five or six months.

Q. Five or six months?

A. Yes. And I think I went down to the—worked for a while at the Venice Vanguard and Culver City Star News.

Q. About how long did you work there?

A. About a year.

Q. After that what did you do?

A. Then I didn't do anything until I went to work for circulation in the Citizen-News selling door-to-door subscriptions. [204]

Q. Did you come to the Citizen-News and ask for a job at that time?

A. Yes, that is right.

Q. You were given the job as a subscription solicitor?

A. I might add that that is the only way I ever got a job from the Citizen-News is asking them for it. I never was called up and told to come down.

Q. You never were called by the Citizen-News. That was in 1934 that you started work as a subscription solicitor?

A. That was January, 1934, yes, sir.

Q. And from the time you resigned in through until 1934 you had about a year's work on other papers in classified?

(Testimony of Leonard Lugoff.)

A. About a year and a half I would say.

Q. You had about a year, or rather a half a year on the Evening Herald and how long——

A. About a year on it.

Q. —on the Beach papers? A. Yes.

Q. Now, after you had been with the circulation department, that was for how long?

A. Six months.

Q. Then did you ask Mr. Tobin for a job in classified?

A. Well, the circulation solicitors are given, or were at that time given the option of selling classified along with their circulation, and getting 25 per cent on it. And I had [205] a few accounts running at that time, and I never was very much interested in circulation. I didn't like punching doorbells and I asked Tobin, I said, "You have got my old territory running, and I have got a few accounts running on it and I am going to quit circulation and if you want to hire me fine and dandy, because whether you hire me or not, I am going to leave circulation."

Q. And he hired you at that time?

A. Yes.

Q. On what basis?

A. 25 per cent commission.

Q. The same as you had previously worked on?

A. Yes.

Q. How long did you work on the 25 per cent basis then? A. Six months.

(Testimony of Leonard Lugoff.)

Q. Then did you approach Mr. Tobin again about the compensation?

A. Yes—not compensation, no. I said I would appreciate it if he took me off of the 25 per cent and paid me something similar, working it on a lineage basis—or not something similar, pay me a similar amount on a lineage and ad basis like the other men were getting.

Q. When you say you wanted him to pay you a similar amount—

A. That is similar to the 25 per cent that I was making.

Q. If you were earning \$20 a week you wanted him to work out[206] a \$20 a week basis but upon a different method of computation, is that what you mean?

A. No, I wanted him to work out a similar compensation comparable to the 25 per cent commission I was getting; in other words, I was getting 25 per cent on the business I brought in. I wanted him to work out a lineage and ad basis of pay similar to that.

Q. You mean a lineage basis and an ad basis that together would be equivalent to 25 per cent?

A. That is right.

Q. Of the selling price of the ads?

A. That is right.

Q. Why did you ask for that change?

A. Well, he was paying everybody else that and I figured that that was the way to be paid.

(Testimony of Leonard Lugoff.)

Q. Well, did it make any difference as long as it was the same 25 per cent basis?

A. No, it really didn't make any difference. I just requested to be considered the same way.

Q. After that conversation, what was the rate that was fixed? The rate of compensation?

A. He fixed a \$10 base pay and a cent and a half a line and a cent an ad.

Q. What do you mean by \$10 base pay?

A. That he figured pay from \$10 and then a very small [207] commission on lineage, and ad commission on top of that.

Q. You mean you got \$10 whether you sold any ads or not?

A. Well, Mr. Palmer, I was running a certain amount of business per week at that time and there was no possibility of those ads dropping out. There was business that ran week by week. In other words, I was bringing in at that time so much money per week and had been for the past three or four months.

Q. What I am getting at, Mr. Lugoff, is just to make it clear what the \$10 base pay is. The \$10 pay base had nothing whatsoever to do with the number of ads or the amount of lineage?

A. No.

Q. That you produced? A. No.

Q. It was entirely independent of that, before any compensation would be determined, \$10 would be assigned to you? A. That is right.

(Testimony of Leonard Lugoff.)

Q. Independent of the number of ads or amount of linage; is that correct? A. Yes.

Q. Plus the \$10 then you got a cent and a half on each line of advertising that you produced?

A. Yes.

Q. Plus the cent and a half a line you got one cent for [208] each advertisement that you produced; is that correct? A. That is correct.

Q. How long did you continue at that rate of compensation?

A. Up until the time I was fired in 1940, except for one change. Now, when Mr. Tobin gave me this, I thought that he was making a compensation there that was similar to the 25 per cent. After I worked on it for a week, I started figuring out myself and he had chiseled me a little bit on it and I was way below my 25 per cent and I protested and I kept protesting all the time I was there and the only adjustment I ever got on it he said, "Well, if you get it up to a 1000 lines a week, or if any week you run a 1000 lines, we will be willing to give you a half a cent more a line commission."

Q. About when was this, Mr. Lugoff? Can you recall about when this was?

A. That happened about a week after—you mean that I protested?

Q. Yes.

A. About a week after Tobin put it in effect. I asked to be later on—later on I asked to be put back on the 25 per cent and he said he couldn't do

(Testimony of Leonard Lugoff.)

that, in fact, I asked him several times to be put back to the 25 per cent.

Q. Did he say why he couldn't do that?

A. He just didn't want to do it. He didn't say why. He very seldom gave reasons. He just didn't want to do it. [209]

Q. Was that some time in 1936 or 1935, you think?

A. It was way before 1935.

Q. It was some time in 1934?

A. Yes, it was some time in 1934.

Q. Now, when did you next take up with Mr. Tobin anything about rates of compensation?

A. It seemed to be a continual taking up with Tobin all the time I was there. I was dissatisfied with the rate of pay I was getting and, in fact, the rate of pay I was getting was lower than anybody on the outside was getting and I told Tobin that I thought it was unfair. I asked if he couldn't do anything else to put me back to my 25 per cent commission. There was a continual harassment on my part of Mr. Tobin to change me around and give me what I considered a fair compensation.

Mr. Sargent: I object.

Q. (By Mr. Palmer) You mean you were continually harassing Mr. Tobin and not Mr. Tobin continually harassing you?

A. No. Mr. Tobin was satisfied with the deal that he had.

Q. That he had? A. Yes.

(Testimony of Leonard Lugoff.)

Q. Well, now, in 1937, did you discuss classified rates of compensation, working conditions with Mr. Young? A. Yes.

Q. Will you tell the circumstances of that? [210]

A. I made an appointment with Mr.— I already told that yesterday, it is a matter of record. I made an appointment with Mr. Young to correct what I thought was a wrong in the department and when I made the appointment I was going in by myself but I made the appointment for the following day and in thinking it over I decided that I needed moral support and I took Mr. Phil Allen in with me, who was also interested in getting a readjustment, or getting a guaranteed living wage, into the office with me.

Q. Was that your first time of going into Mr. Young's office?

A. That was the first time that I ever approached Mr. Young about anything.

Q. Didn't you go to Mr. Young's office in March with the members of the circulation?

A. I beg your pardon. That was on Mr. Young's request that we came in there and talked over classified.

Q. When was that before the one you have just mentioned, or just after?

A. That was when the Guild first organized in 19—— about May, 1937.

Q. About May, 1937. That was when the Guild first organized? A. Upstairs.

(Testimony of Leonard Lugoff.)

Q. What do you mean when they first organized?

A. When they were first—when the Guild first got into [211] the Citizen-News, and the editorial department started organizing upstairs and asking for a contract.

Q. Wasn't that, as a matter of fact, in 1936?

Mr. Sokol: I thought you testified, Mr. Palmer, you didn't know the date. Is it 1936? I will stipulate to that.

Mr. Palmer: I saw a bulletin issued by the Guild in 1936.

Mr. Sokol: Will you stipulate that the Guild organization commenced—

Mr. Palmer: I am not asking for a stipulation. I am cross examining the witness.

The Witness: It was during — may I revise that? It was during the time that the Guild was organizing upstairs and asking for a contract.

Q. I am not trying to trip the witness. I am trying to get it clear in his mind and the Court's mind, the sequence of events. Well, it possibly could have been in 1936? A. No.

Q. It was sometime in '37? A. '37.

Q. You say that was at Mr. Young's request?

A. Yes.

Q. How did Mr. Young make the request?

A. As near as I can recollect he made it in writing. [212]

Q. Did you see a copy of the writing?

(Testimony of Leonard Lugoff.)

A. I recall a copy, just what it said I don't know. I think it was in substance, it asked us all to form committees and to come into his office and talk over conditions with him.

Q. And you did then go into his office with other members of the classified department?

A. With all members of the classified department.

Q. Were all the members of the classified department there? A. Yes, sir.

Q. That was about how many?

A. At that time there were about 12 in the department.

Q. Did you have any chairman or spokesman at that time?

A. At that time, Mr. Palmer, right after that meeting I went on my vacation and by the time I came back they had had an election. In the meantime they had elected a chairman. They had turned down the Citizen-News as far as signing up a contract for a year. They made out a contract and it was passed on by the management and the management wanted to sign up for a year and classified didn't want to sign. And the recommendations that they made in the contract went in effect just the same.

I was on my vacation at the time and didn't take any part in it.

Q. Now, going back to the meeting, my question was: At the time of this meeting with Mr. Young,

(Testimony of Leonard Lugoff.)

was there any spokesman [213] or any chairman of the group?

A. At the time of the meeting, no.

Q. Who did any talking at that time for the members of the classified department, if you recall?

A. Well, I think Helen Brichoux did a little talking; Florence Davis did a little talking; most of us didn't know what it was all about. We were just in there to listen. Going in to see Mr. Young was merely preliminary to finding out what it was all about and getting together on what we wanted in contract form and then coming in to him.

Q. Now, of the conversation that you recall, and I am asking you only for that, if you can't recall you may say so, what did Helen Brichoux say at that time?

A. I can't recall any particular conversation. What Helen Brichoux said or what she was interested in, I don't know.

Q. What did Miss Davis say at that time?

A. I do know this, Mr. Palmer, that the phone girls were dissatisfied with the rate of guarantee they were getting. They started out I think at a \$10 guarantee, later raised to \$15 when the N. R. A. went in and at the end of this conference it was raised to \$22.50.

Q. Was anything said at this conference with Mr. Young about any one's dissatisfaction with the rates of pay?

(Testimony of Leonard Lugoff.)

A. Yes. That was what the phone girls had in mind. They were dissatisfied with their rate of pay.

[214]

Q. They did then at that time tell Mr. Young that they didn't believe the rates of pay were fair or satisfactory?

A. Yes.

Q. Did Mr. Young make any comments at that time or any statements to any of you?

A. No, there was no comments made on anything at that time. There was just kind of a general meeting. Mr. Tobin was there and Mr. Young was there and all of the classified was there.

Q. Was there any mention made at that time about the compensation of the outside salesmen?

A. To the best of my knowledge, the outside salesmen didn't say anything. They did say that they wanted a car allowance.

Q. Do you recall who said that?

A. Phil Allen and Mr. Price. It was just a general thing, I don't know who said it.

Q. Was any decision reached by——

A. There was no decision reached.

Q. By the classified people?

A. There was no decision reached at that time. I did myself make a suggestion, Mr. Palmer.

Q. What was your suggestion?

A. That I would like to go back on the \$35 guarantee that we were getting before, eliminate any car allowance. At one time I worked for the Citizen-

(Testimony of Leonard Lugoff.)

News in 1926 and '27 and we [215] worked on a \$30 and \$35 guarantee with a 20 per cent commission. They figured the commission at the end of the month. I did make a suggestion that I would like to see that same thing in effect again, that there should be a guaranteed wage paid to people working classified.

Q. That was in 1926 you say you worked on a guarantee?

A. I worked two and a half years—two years for the Citizen-News on a guarantee of \$35, \$30 and \$35, and 25 per cent commission.

Q. What do you mean by that?

A. I started out at \$30 and I was raised to \$35.

Q. That meant \$30 and \$35 and a 20 per cent commission, just exactly what did that mean, Mr. Lugoff?

A. It meant that you got \$30 or \$35 and you are getting—you got \$30 or \$35 as you were getting then per week salary, and at the end of the month they would figure out all the accounts billed, all the accounts you brought in cash, and multiply that by 20 per cent and if you had anything coming they would give it to you and if you didn't there was nothing lost, you still got your \$30 or \$35.

Q. You got nothing more than \$30 or \$35 unless your commissions at 20 per cent would yield something more than that amount?

A. That is right.

(Testimony of Leonard Lugoff.)

Q. Now, at this meeting with Mr. Young, you did state you [216] thought that should be the method of compensation?

A. Yes, primarily, because it meant that the outside sales people wouldn't take the bumps when conditions got bad or conditions occurred that were outside of their control.

Q. You told this to Mr. Young at that time?

A. That is right.

Q. What did Mr. Young say?

A. He didn't make any comment on any of these suggestions at that time. Mr. Tobin didn't make any comment on them.

Q. Well, before you broke up, did anybody make any suggestion to what might be done?

A. No. The understanding was that they would make this—these suggestions in contract form, have a committee take it up with Mr. Young and when that was consummated, sign it, and we would be protected for a year.

Now, as I said, I went on my vacation right after that meeting and when I came back it was all over.

Q. Well, the talk was before you left that they would adjourn this meeting and get together in an effort to determine compensation and working conditions for employees? A. That is right.

Q. When you came back from your vacation, what did you find then?

A. I found that the outside sales people were getting the same as they already got as far as the

(Testimony of Leonard Lugoff.)

guarantee was concerned; [217] in other words there was no guarantee and they were getting a car allowance. It was to be figured out on a mileage—on the mileage covered by the territories. The phone room was raised, however, from a \$15 guarantee to \$22.50. They automatically got \$22.50 each week, everybody.

Q. But there was no change made in the outside sales force?

A. The only change was car allowance.

Q. Car allowance was added to their compensation?

A. To the compensation, yes.

Q. In your own regard how much did that amount to?

A. \$4.00 a week.

Q. About \$4.00 a week. That was a flat \$4.00 a week?

Trial Examiner Whittemore: Then your compensation was increased by \$4.00 a week?

The Witness: Yes.

Q. (By Mr. Palmer) As a result of those conferences?

A. That meeting.

Q. You said, I believe, that there was no signed agreement at that time?

A. No, that is right.

Q. But purely an oral agreement?

A. Purely an oral agreement, yes.

Q. And that Miss Brichoux at that time was a member of the Guild?

A. Yes. [218]

Q. In your meetings she contended, did she not, that—

(Testimony of Leonard Lugoff.)

A. I wasn't at the meetings. I came back after, as I said, it was all over and I asked the reason why the contract wasn't signed and it was explained to me that way.

Q. Who explained it to you?

A. Well, Benny Price, Helen Brichoux, the people who were on the committee.

Q. Miss Brichoux explained that no contract was signed because of her desire?

A. Because of her arguments in favor of the Guild.

Q. You had the Guild do the negotiating?

A. Yes.

Q. When did you join the Guild?

A. I joined the Guild October 1, 1937.

Q. Did any other members of the classified besides you and Miss Brichoux join at that time?

A. Yes, I think they all had a false idea about what we were doing and about 75 per cent of the classified joined the Guild and said, "We are Guild members now and all united," and we were delighted. We thought it was a good thing, a nice new club, and we didn't realize what the Guild was about.

Q. And about three out of the four of the classified members joined the Guild?

A. About three out of four, yes.

Q. How long did you continue as a member of the Guild? [219]

A. Until the strike occurred.

(Testimony of Leonard Lugoff.)

Q. Then what happened?

A. Then they asked me to turn in my card.

Q. Because you——

A. Didn't join the strike.

Q. ——didn't join the strike?

A. That is right.

Q. And how many from the classified department did join this strike? A. One.

Q. That was whom?

A. Helen Brichoux.

Q. Helen Brichoux so far as you know is still working at the Citizen-News?

A. She is working at the Citizen-News.

Q. In the classified department?

A. That is right.

Q. The cards of all the other classified members were taken up at the same time yours were so far as you know? A. Yes.

Q. Since then so far as you know have any of them joined the Guild? A. No.

Q. You have repeatedly asked them to join the Guild, haven't you? [220]

A. I repeatedly asked them to sign a petition. My first step, Mr. Palmer, was I found out—and that is one reason why I rejoined the Guild—I found out that you could get the Guild to bargain for you without belonging to the Guild and I figured, well, that would be the first step, so I tried earnestly to get people to have the Guild bargain for them.

(Testimony of Leonard Lugoff.)

Q. About what time was this that you took up this petition?

A. The first petition was in May.

Q. May of—— A. 1939.

Q. ——1939? A. That is right.

Q. Have you a copy of that petition?

A. Yes, I have.

Q. May we have it?

Mr. Sokol: There are certain names on the petition, Mr. Examiner, and the union has objected to revealing those names to me even. I can show Mr. Palmer the head of it.

Mr. Palmer: No, the petition upon the instigation of counsel for the Board, has been referred to, and its contents referred to and counsel knows as well as the Court knows that with the petition itself in existence that that is the only acceptable evidence. If it was not in existence true enough we could go into oral testimony. It was not at our [221] instigation that this petition was referred to.

Counsel knew when he referred to the petition that opposing counsel would have a perfect right—well, laugh if you want to, Mr. Sokol, I happen to know a little about law.

Mr. Sokol: I am not laughing at you.

Trial Examiner Whittemore: I am going to suggest if you want to continue to examine the witnesses that you forego making remarks to opposing counsel.

(Testimony of Leonard Lugoff.)

Mr. Palmer: Then I request counsel to conduct himself with respect to opposing counsel when an objection is seriously made, that he not ridicule or laugh at opposing counsel.

Mr. Sokol: I can assure the Examiner that that is wholly within Mr. Palmer's mind.

Trial Examiner Whittemore: Well, I want to ask a question at this point: This wasn't a petition prepared by the Guild in any way, was it? It was a petition prepared by this witness?

Mr. Sokol: Yes, that is my understanding.

Trial Examiner Whittemore: And as I understand from his testimony it wasn't a petition for membership in the Guild, it was merely to ask the Guild, or to ask those who signed to accept the Guild as their bargaining agent, was that it?

Miss Daniel: Mr. Examiner, the petition was drawn up [222] with the knowledge and help of the Guild because Mr. Lugoff, with the best intentions in the world, I don't think would be able to phrase a petition in the correct language and would have to have the advice and help of people with knowledge of such things, and that information and advice was given, and Mr. Lugoff was continually encouraged to do this work.

The position of the union in this is that it always instructed anybody who was working in its behalf to assure people who were timid or afraid that their names would be protected until a majority of their

(Testimony of Leonard Lugoff.)

department was obtained on a petition and that their names would not be revealed until that time. So that the union believes that it would be betraying the confidence of the people who did join if it revealed the names.

Trial Examiner Whittemore: Well, they didn't join.

Miss Daniel: The people who signed. It would very seriously be suspected and lost the confidence of people there, and there would be a general distrust and a fear to do anything that the Guild suggested.

Mr. Palmer: I will make a stipulation to this effect then, that Mr. Lugoff may read the petition and leave off the names of any signers.

Mr. Sokol: That was what I was getting at.

Mr. Palmer: And he can keep the names confidential. I don't care for the names. [223]

Trial Examiner Whittemore: Thank you. That is very good.

The Witness: I may add too, that I obtained these names and promised the people at the time that I would not show them to the management.

Mr. Palmer: I don't care about the names, I am concerned with its contents only.

Trial Examiner Whittemore: I think while you are searching for that it is a good point to take a five minute recess.

(A short recess was had.)

(Testimony of Leonard Lugoff.)

Trial Examiner Whittemore: On the record.

At the request of Mr. Palmer you may read the petition into the record, leaving off the names of the people.

The Witness: It says, "We, the following of the department of the Hollywood Citizen News, representing a majority of the employees of that department, do hereby authorize the American Newspaper Guild to be our agents for purposes of collective bargaining as established by law."

Q. (By Mr. Sokol) That is "of the blank department", is that correct? A. Yes.

Q. (By Mr. Palmer) Is there any date on that?

A. No.

Q. You promised all the people that you approached with [224] petition that you would not reveal their names?

A. They made me promise that.

Q. They asked you to promise that?

A. Yes.

Q. How many signatures did you get to it?

A. Four.

Q. That included your own? A. Yes.

Q. And Miss Brichoux?

A. And Helen Brichoux.

Q. Helen Brichoux's signature was on that?

A. Judge Palmer—

Mr. Sokol: Pardon me, will you read that question?

(Testimony of Leonard Lugoff.)

(Question read by the reporter.)

Q. (By Mr. Palmer) She was a Guild member anyway. I thought that was permissible.

A. Helen Brichoux and myself did sign.

Q. Yes. And two others signed it?

A. That is right.

Q. How many did you approach, Mr. Lugoff, with that?

A. Counting myself, Mr. Palmer, I approached at that time seven in the department.

Q. How many were there in the department to be considered? A. Twelve.

Q. And of the seven and counting yourself and Miss Brichoux, [225] four signed?

A. Four signed.

Q. Three did not? A. Three did not.

Q. During what hours of the day did you approach these seven people with this petition?

Mr. Sokol: Objected to as immaterial.

Mr. Palmer: If your Honor wishes to——

Trial Examiner Whittemore: I will permit the question.

Mr. Sokol: That is no ground for discharge. The respondent has not urged that.

Trial Examiner Whittemore: Well, it would be extremely interesting at this time if the respondent should urge it as reason for discharge. However, you brought out on direct examination the fact that he——

(Testimony of Leonard Lugoff.)

Mr. Sokol: I withdraw my objection.

Trial Examiner Whittemore: ———did do it during the working hours within knowledge of the respondent.

The Witness: I would like to make an objection to that statement "working hours." I did pass a petition around during the day but it was during the noon hour when we were supposedly at lunch.

Q. (By Mr. Palmer) I didn't mean to imply, Mr. Lugoff, when you circulated it.

Trial Examiner Whittemore: I misappropriately framed [226] my question and I apologize. It was my fault. I inserted that phrase. You simply asked him when he circulated it, what time during the day.

The Witness: I think I made a statement yesterday that I did that circulating during the noon hour.

Q. (By Mr. Palmer) During the noon hour?

A. Yes.

Q. When the people were on their lunch hour?

A. Yes.

Q. That was when they were sitting down at their desks? A. Yes.

Q. They didn't go out to lunch, the people?

A. Yes, they went out. They usually went out and came in before the time for them to go to work.

Q. As they would come in you would sit down and talk with them?

(Testimony of Leonard Lugoff.)

A. Sit down and talk with them, tell them what I was doing, telling them what I thought were the advantages of having the Guild bargain.

There were other times after hours, after 5:00 o'clock, that I walked up the street with them and talked to them about it too. I never did it at any of their homes but most of the time was the noon hour.

Q. And sometimes after 5:00 o'clock you would walk up the street with them? [227] A. Yes.

Q. And sometimes in some instances at their homes? A. No, never at their homes.

Q. But up the street or as they were sitting at their desks during the noon hour? A. Yes.

Q. You say you approached the six people besides yourself? A. Yes.

Q. Three of the six people signed, agreed with your contentions, and three did not? A. Yes.

Q. And the other five employees in the classified department you did not approach at all?

A. At that time.

Q. I mean with reference to this petition?

A. To this petition, no.

Q. You did not approach? A. No.

Q. Any of the other five in reference to it?

A. No.

Q. Do you recall any day that Mr. Tobin was sitting at his desk while you circulated this petition?

A. Mr. Tobin during the lunch hour came in the office and sat down and went out. He wasn't sitting

(Testimony of Leonard Lugoff.)

down there for work. It was during his lunch hour as well as the lunch hour for the [228] rest of us.

Q. What is the lunch hour?

A. Between 12:00 and 1:00.

Q. Between 12:00 and 1:00? A. Yes.

Q. Did Mr. Tobin go out for his lunch between 12:00 and 1:00?

A. Yes, he usually did. Sometimes he went across the street and finished his lunch in 15 or 20 minutes and came back in the office.

Q. Well, how many occasions would you say that he was sitting at his desk when you were circulating this petition?

A. To be frank with you, Mr. Palmer, when I started circulating the petition, Mr. Tobin was not in but during the circulation he came in. I never circulated it at the time that he was there. In other words, I didn't go in there with the idea of circulating it right under his nose. I was, you might say, caught in the act.

Q. How many times were you caught in the act?

A. Oh, I don't recollect. That happened consistently.

Q. Well, four or five times?

A. At least that.

Q. At least four or five times Mr. Tobin returned from his lunch while you were talking with some of the employees?

A. Yes. Now, have you reference to the first petition? [229]

(Testimony of Leonard Lugoff.)

Q. Yes, this first petition, Mr. Lugoff, I am still on that, perhaps too long, but I am still on it.

A. Well, the first petition now.

Q. This one that you have read?

A. I was figuring on the whole business. Now, this first petition I doubt whether Mr. Tobin was in the office when I was circulating it.

Q. At any time? A. Yes, I doubt that.

Q. To the best of your recollection he was not in?

A. No. In fact, Mr. Palmer, the first petition and that contract that I made out following was given to people and was given to them in such a way, for instance, that—you see the people that I contacted on this first petition and the contract were more afraid of their jobs than I was. There seemed to be a fear in the department that if the management caught them doing anything like that that they would lose their job, and on this first petition and the following contract, the petition was left in their hands and I walked away. There was nobody around. The signatures weren't obtained at the office, they were obtained at lunch time while we were eating lunch.

Q. At one of the restaurants, you mean?

A. Yes.

Q. That applies to both the petitions and——

[230]

A. The following contract.

(Testimony of Leonard Lugoff.)

Q. And that document which you referred to as a contract?

A. Yes. The reason I so state is there was a fear there, and personally I wasn't fearful.

Q. You did your very best, however, to cater to their fears?

A. Yes, because they feared their jobs were in jeopardy.

Q. You weren't afraid?

A. I didn't believe that, knowing you as well as I have known you, I couldn't believe that that fear was founded on anything but imagination.

Q. They all knew at that time that there was a Guild unit in the organization?

A. That is right.

Q. Functioning in the news room editorial department? A. That is right.

Q. And they had made contracts with the management?

A. They figured that this news unit, or this Guild unit upstairs was functioning because of the strike and nothing but the strike; in other words, through force. They figured that the Guild unit was in existence——

Q. Did any one of them tell you that?

A. No, but that was the way it was suggested to me; in other words, there was a fear and the only way you could explain that fear was that the Guild unit existed primarily because of the force they put back of the strike. [231]

(Testimony of Leonard Lugoff.)

Q. As a matter of fact, didn't some of them tell you that they were afraid of a strike, that they didn't want a strike?

A. No, not these people that I contacted. The people I contacted wanted this. They were dissatisfied with the wages they were getting, and with the working conditions in there. You see I confined my activities to people I knew wanted a change and at the same time as much as they wanted this change they were fearful of doing anything to let the management know what they wanted.

Q. You mean three of these people that you contacted were afraid to sign, they wanted to sign but they were afraid to sign?

A. That is right.

Q. You don't care to mention their names?

A. No.

Q. Those who——

A. No, they are still in the employ.

Q. —are afraid you say?

A. It is more or less in my mind as a trust.

Q. Those three are still in the Citizen-News employ?
A. That is right.

Q. In 1938 you had a conversation with Mr. Tobin in reference to low production?

A. Yes.

Q. Can you fix the approximate time in 1938 that that took place? [232]

A. About August 1st.

(Testimony of Leonard Lugoff.)

Q. About August 1st? A. That is right.

Q. That was at the end of the strike?

A. That was, yes, right at the end of the strike—no, that was just before the end of the strike, Mr. Palmer. I went on my vacation and when I came back the strike had already been settled and the people on strike were given a two weeks vacation and they were supposed to come back to work. Before I left on my vacation that hadn't been decided on.

Q. Was it August 1st when you left on your vacation?

A. It was two weeks or three weeks preceding August 22nd. Now, that may be July 30th.

Q. If it would be three weeks, it would be August 1st.

A. I went on a two weeks vacation and I came back and worked a week and was out of a job.

Q. Well, when you went on your vacation the strike was still on? A. That is right.

Q. When you came back the strike had been settled? A. That is right.

Q. Do you know for how long?

A. No, it may have been a week or I think it had been settled a week at the most. [233]

Q. It had been settled a week?

A. And none of the strikers though were back at the office, as I understand it, they were given a two weeks vacation.

(Testimony of Leonard Lugoff.)

Q. Now, immediately after you got back, was it, that you spoke to Mr. Tobin about low production?

A. I spoke to Mr. Tobin about the low production before I went on my vacation.

Q. Oh, before you went on your vacation?

A. Yes.

Q. Do you remember where that conversation was held? A. In his office.

Q. Was it the day you left on your vacation or a week or so before?

A. It was a few days preceding the day I left on my vacation.

Q. You and Mr. Tobin were sitting together in Mr. Tobin's office?

A. Yes. Mr. Tobin was sitting and I was standing at his desk. I came in to see him about my production.

Q. Relate the conversation that took place at that time.

A. I said, "Mr. Tobin, I am contemplating making a loan. I have to send my wife back east. It isn't imperative but we think it is necessary. I know that my production is low and I think it is mainly due to the strike conditions."

I said, "I need \$300 on this loan and if there is any possibility that you are going to fire me because of low [234] production," and, as I said, my production was low. My sales cost was a good deal higher than 25 percent, I think it was around 35,

(Testimony of Leonard Lugoff.)

maybe 40 percent, I said, "Let me know and I won't make the loan."

Mr. Tobin said, "There is nothing to worry about. Go ahead and make the loan."

Q. Was the strike still on at that time?

A. The strike was still on, yes, sir.

Q. Now, you don't have to answer this but did you make the loan through the credit union in the Citizen News?

A. No, there was no credit union at that time. I made it through the Bank of America.

Q. What were your earnings at that time when you were speaking to Mr. Tobin?

A. You mean my lineage or my actual earnings?

Q. Your actual earnings. What was your pay check?

A. My pay check was as low as \$15 a week.

Q. Then you got back from your vacation and when did Mr. Tobin first speak to you about leaving?

A. The Friday following the Monday that I came back.

Q. The Friday following the Monday you came back?

A. Yes.

Q. Where was that conversation held?

A. In Mr. Tobin's office.

Q. Did he send for you at that time? [235]

A. He did.

Q. Then relate that conversation.

(Testimony of Leonard Lugoff.)

A. He said, "Lugoff," he says, "I am sorry but I will have to let you go. We have taken the strikers back and we have got to cut expenses."

Q. Was there anything further said?

A. I said something further, Mr. Tobin didn't say anything further. I recalled what he told me two weeks previous and that I had got a \$300 loan on my shoulders with no chance of getting a job and he tried to tell me a man of my ability shouldn't have any hard time finding work.

Q. What did you say in reference to that?

A. I said, "Well, you are beating around the bush." I said, "You promised me that my job was secure. I went out and got a loan and now I am stuck."

He said, "Well, the best thing that I can advise you is to go and see Mr. Palmer."

I said, "Oh," to be frank with you, I said, "the hell with it. I wouldn't go over your head anyway." I said, "I have been here just about seven years and I haven't gone over your head yet," and I was pretty sore. I walked out of the office then and figured that I and the Citizen-News had parted company forever.

Q. Yes. Then you didn't change your mind?

A. Over the week end, my wife had already been sent back [236] east, I had that loan, the loan was spent and as often the case I on second thought, I got a little cool and started figuring it was to my

(Testimony of Leonard Lugoff.)

advantage to see whether I could get that loan off my shoulders. That was, Mr. Palmer, the main reason I came to see you on account of that loan. I was deeply worried about that. I never did get a loan before when the first week I couldn't figure a way of paying it.

Q. At the time that Mr. Tobin discharged you, you were not a member of the Guild?

A. No, sir.

Q. You had refused to join the Guild in going out on strike?

A. I refused to go out on strike.

Q. You stayed on the job? A. Yes.

Q. At that time you told Mr. Tobin that you were not a member of the Guild?

A. I don't believe the Guild was brought up as far as Mr. Tobin and I were concerned. It was a conversation about the promise of having a job after I got that \$300 loan.

Q. Did you ever prior to that conversation tell Mr. Tobin that you had been a member of the Guild?

A. I don't recollect at the present time that I told Mr. Tobin anything about my Guild affiliations, but there was quite a movement at the time that everybody in classified join [237] the Guild. There was no secret about it. We were very much confused. We thought we were in a new movement for white collared workers and we broadcast it to

(Testimony of Leonard Lugoff.)

everybody that we were members of a new organization.

Q. That was general around the plant?

A. Yes.

Q. At that time there was no fear entertained by anybody, was there?

A. No fears. Nobody realized just what the Guild was. I didn't realize what the Guild meant. It was merely a movement, a new organization with a new club house and something to be proud of.

Q. At the time the strike was called three out of four of the members of the classified department were members of the Guild? A. That is right.

Q. And no secrecy was maintained about their membership in the Guild? A. That is right.

Q. When in relation to the calling of the strike did you circulate this petition?

A. When in relation to the calling of the strike?

Q. Yes.

A. I didn't circulate any petition, Mr. Palmer, until after I had rejoined the Guild in 1939. [238]

Q. You had rejoined before you circulated that first petition? A. Yes.

Q. Now, after telling Mr. Tobin to hell with it, you did come up to my office?

A. Yes. I thought it over and in cooler moments I realized I was in a fix and I had to get out of it.

Q. That was on a Monday morning?

A. That was on a Monday morning?

(Testimony of Leonard Lugoff.)

Q. Mr. Tobin had spoken to you on the Saturday or Friday before? A. Friday.

Q. And the door to my office was open when you came up there?

A. I first went to Mr. Tobin. I said I didn't realize he had gone on his vacation that Monday and he wasn't in and I asked where he was and they told me he was on his vacation so then I went upstairs and I spoke to Dorothy Stone and she said I could go in to see you.

Q. The door was open and you just walked in?

A. I walked in. I don't remember whether the door was open or whether it was closed. I know she gave me permission to come in.

Q. You say Mr. Young was in there at that time? A. Yes, sir.

Q. Did you see Mr. Thompson around the office at that time? [239]

A. No. I distinctly remember getting permission from Dorothy Stone. I didn't see Mr. Thompson at all.

Q. You don't know whether Mr. Thompson was in there when you came in or when you went out?

A. He may have been there when I went out. I know he wasn't there when I went in.

Q. Was the door open during the conversation that took place? A. That I don't remember.

Q. All right. Did you open the conversation?

A. Yes.

(Testimony of Leonard Lugoff.)

Q. What was the first thing you said?

A. I said, "Mr. Palmer, I have been fired by Mr. Tobin last Friday and I would like to speak to you about that firing."

Q. What did I say?

A. You said, "Go right ahead," and you indicated to Mr. Young the conversation was to be——

Mr. Sokol: Would it be agreeable if you would have Mr. Thompson step out of the room at this particular time?

Mr. Palmer: Yes. Mr. Thompson, will you kindly step outside?

Q. (Mr. Palmer) All right. Go ahead.

A. Then I went on with the conversation. I said, "I have been working in classified for the past five years." It was five years at that time, "And up to the time of the strike I [240] have been bringing in enough business to warrant my employment. From the time of the strike until the present time——" That was the time I came up to see you—"my advertising production has taken a decided drop primarily because of the strike."

I said, "At the time of the strike I was a member of the Guild but gave up my card. My main reason for coming up to see you is that I talked over before going on my vacation, two weeks previously, my low production with Tobin and told him that I contemplated a loan and that if my job was secure I was going ahead with it and if it weren't on account of my low production, that I would forget the

(Testimony of Leonard Lugoff.)

loan, and he told me to go ahead and get the loan, that there was nothing to worry about."

Q. This is what you were telling me at the time?

A. I was telling you that, yes.

You listened to that conversation and then I said, "Now, I have got a \$300 loan on my shoulders with no job." I said, "I wouldn't have incurred this loan if Mr. Tobin hadn't made me believe that I still would have a job." I said, "I know there is no legal reason why you should be made to pay that loan but I am in a position where I don't know how I am going to pay it back and I certainly wouldn't have had it if it hadn't been for Mr. Tobin's say so."

At that time you thought a minute and said, "Do you want your job back or do you want us to take over the loan?" [241] So I told you I had to go to work. You then told me to go downstairs and Mr. Young and you would talk it over and let me know in an hour.

That was the only conversation. You told me to go ahead, you listened to what I had to say, you asked me whether I wanted my job back or the loan taken care of, and then you told me to go down stairs and wait for your reply while you talked it over with Mr. Young.

Q. Prior to my asking you if you wanted us to pay the loan or wanted your job back, had you asked us to pay the loan?

A. I merely suggested in the course of the conversation that I had with you that there was a

(Testimony of Leonard Lugoff.)

moral obligation, there was no legal obligation. You came out spasmodically or voluntarily out of the goodness of your heart and said you wanted to know if I wanted you to take over the loan. I certainly appreciated that.

Q. When you were discharged did you receive any severance pay? A. Yes.

Q. How much was that, if you recall?

A. I think it was computed on the average of four weeks representing four years at \$14 a week.

Q. To the best of your recollection, your severance check at that time was \$56?

A. \$56, I think it was. With my week's pay it made it, [242] I think the whole thing came to around sixty some dollars.

Q. When you were discharged in March, 1940, how much was your severance pay check?

A. I don't recollect. It was computed on the basis of so many years at \$24.

Q. Have you any idea how much it was?

A. Around \$200.

Q. Did you ever offer to return the severance pay check that you received in March, 1940, to the Citizen-News when asking for your job back?

A. The whole matter was in the hands of the Guild. The Guild took up my reinstatement. It wasn't favorably received. The management didn't seem to be interested in hiring me back or what became of my severance check. I might state at the

(Testimony of Leonard Lugoff.)

time of firing in 1938 that I was handed a severance pay check which I cashed right away and when I came back to work for the Citizen-News it was taken care of in the form of a loan. Mr. Ringwald knows that.

Q. You returned that first severance pay check when you returned?

A. I did not return it, Mr. Palmer, that is, I did not return it the next day. I had already spent the money and when I came back just two days later it was gone and I had to reinstate the loan.

Q. You borrowed money? [243]

A. To pay it back.

Q. To pay back the severance pay check at that time? A. Yes.

Q. At this meeting that the Guild had with Mr. Sargent, did you hear anybody make an offer to return your severance pay check in connection with the demand that you be reinstated?

A. I don't recollect that, but to my mind it wasn't important because I knew if I got reinstated that they would take care of that in a similar manner as they took care of the first severance pay check; in other words, the first severance pay check was gone and there was no difficulty to float a loan to get that back.

Q. You believed that if you were reinstated the last time that the Citizen-News would loan you the money to repay the check?

A. Well, I had the money at the time but I said if I hadn't had it, that they would be glad to do it.

Q. You had complete confidence in that?

A. There was no question in my mind that it wouldn't be handled the same way if I were out of money.

Q. During the conversation in the presence of Mr. Young and myself, was the strike mentioned at all, Mr. Lugoff?

A. Yes, it was.

Q. In what connection?

A. I mentioned that I gave up my union card when the strike [244] first started. I also mentioned that my lineage took a decided drop from the time the strike started until the duration of the strike.

Q. Was the strike mentioned in any other connection?

A. Not that I recollect.

Q. You are positive that it was not?

A. I don't recollect any other way the strike was mentioned. I was mainly, as I said, mainly interested in trying to protect that \$300.

Q. As a matter of fact, Mr. Lugoff, did you not at that time state that it was unfair on the part of the management to take back five employees whom the management contended it did not need, and let you go, who was earning at least a part of what you were receiving?

A. As I said before, Mr. Palmer, I didn't recollect that. If I had recollected it I would have said so.

(Testimony of Leonard Lugoff.)

Q. But it might have been said, Mr. Lugoff?

A. There is a lot of things that might have been said. I recollect pretty plainly just what occurred there. I am pretty sure that I didn't make any statement like that.

Q. But you are not positive that you made no statement like that?

Mr. Sokol: I think that has been asked and answered.

Mr. Palmer: Well, he says he is pretty sure and I want to know if he is positive. [245]

The Witness: I am positive that I didn't make that statement.

Q. (By Mr. Palmer) Mentioned that at all?

A. That is right.

Q. Did you know about the terms of the strike settlement at that time?

A. No. I was not interested in the strike settlement agreement. I didn't know any of its terms.

Q. You made no inquiry?

A. Made no inquiry.

Q. You did see the employees who had been discharged about the premises?

A. Oh, yes. I may add that the only time I heard about the strike settlement agreement was in the Guild negotiations and they seemed to want to get Helen Brichoux and Karl Schlichter protected in some other way, that is about all I heard of the strike settlement agreement in the plant when I attended negotiations.

(Testimony of Leonard Lugoff.)

Q. When you got back you saw Roger Johnson there? A. No. They were on vacation.

Q. All on vacation? A. Yes.

Q. Later you saw them come back?

A. That is right.

Q. Yet you knew nothing about the circumstances under which [246] they were——

A. I knew that they were there awaiting approval of the National Labor Relations Board in Washington. I didn't know anything about what the strike settlement agreement included, though. I didn't know the form it was drawn up in.

Q. You did know that much?

A. I did know that.

Q. You did know that five employees were——

A. That you took back the five employees.

Q. —awaiting a decision of the National Labor Relations Board?

A. Yes. I think everybody in the *Citizens* knew that. That was common knowledge.

Q. That was common knowledge around the institution? A. Yes.

Q. Now, this notice that Mr. Young gave you at the time he said you were on probation until January 1, 1939? A. That is right.

Q. Was any statement made to you at that time why the date was fixed as January 1, 1939?

A. No, there wasn't. I was under the impression that it was merely a production probation, if I could raise my production by January 1, 1939, fine and dandy; if I couldn't I was going to be out.

(Testimony of Leonard Lugoff.)

Incidentally, I doubled my production from the time I [247] went back to work and held it fairly consistently all the time that I was there up until March, 1940.

Q. You doubled your production. Did you double your pay checks?

A. My pay check wasn't computed on the production angle; in other words, I doubled the amount of money I was making for the Citizen-News but my pay checks showed very little difference. It showed about \$5 or \$6 or maybe \$7, maybe \$10 a week gained, but it didn't give a picture of what I was doing on the territory so far as bringing in business that the production did. I might say I more than doubled the production.

Q. How long after this reinstatement was it that you went to Mr. Young again in reference to wages?

A. Well, it was practically a year later.

Q. That was in 19——

A. In other words, Mr. Palmer, I engaged in no activities at all while I was engaged on a probation basis. I engaged in no outside activities, that is, such as Guild activities or anything else while I was on probation. When I was taken off of probation I started thinking again.

Q. Did anybody tell you that you were taken off of probation?

A. Well, I waited for somebody to inform me after January 1, 1939, and then I took it for granted

(Testimony of Leonard Lugoff.)

that I was off of [248] probation when nobody said anything to me. For a time I was going to ask Mr. Tobin or Mr. Young but I thought it was kind of a foolish gesture.

Q. All right. You went in to see Mr. Young in 1939 about a year later? A. That is right.

Q. With Mr. Allen? A. That is right.

Q. What is his first name? A. Philip.

Q. Philip Allen. Did he work in the classified department also? A. Yes.

Q. Was that at your request or Mr. Young's request?

A. It was at my request, in fact, I had to drag him in.

Q. I meant was that interview held with Mr. Young at Mr. Young's request or at yours?

A. No, it was Mr. Young's. I didn't know what I was going to talk to him about. I made an appointment with Mr. Young a week previous, I might say, that he was busy and he wouldn't see me and then a week later I made another appointment and in the meantime I got ahold of Mr. Allen and told him what I was going to do and took him with me.

Q. Was anyone besides Mr. Allen and yourself present? A. No. [249]

Q. With Mr. Young at that time? A. No.

Q. To the best of your recollection what was said by anyone of the three, each of the three?

(Testimony of Leonard Lugoff.)

A. Well, I based my assumptions on generalities that some of the outside men weren't making any guarantees, that they weren't working under any guarantees, they were working under commissions, so when commissions got bad on the territory we suffered and not the company and I gave Mr. Young my idea that all employees should be working under a guaranteed living wage, which we weren't. I told him that unions usually came in existence because of dissatisfaction among employees about working conditions and wages.

Mr. Allen took up the fact that the amount of money he was making, with that amount he couldn't make a presentable appearance. His suit was worn out and he didn't have enough money to buy another one and his was very personal opinions why he should have a guarantee.

Mr. Young at that time told us both to go out and write what we had and he would pass on it. He didn't make any comment outside of that.

If Mr. Young has kept his correspondence at all he has my letter or my statement on file there. I didn't keep a duplicate of it.

Q. You and Mr. Allen then did go outside of the office? [250]

A. I didn't wait for Mr. Allen to do anything, I went ahead the same day and wrote it out and handed it in that night to Mr. Young. I don't know

(Testimony of Leonard Lugoff.)

whether Mr. Allen ever did hand anything in. I didn't question him after that.

Q. But you did write out a statement and hand it to Mr. Young? A. I did. I handed it in.

Q. To Mr. Young and suggested to Mr. Young the scales of pay that you thought fair?

A. The only thing I suggested to Mr. Young was that he pay people in classified or people on the outside a living guaranteed wage.

Q. You made no mention as to amount at all?

A. No, whether it was \$19, \$18, or \$20. In fact, I was surprised when he went up to \$24. I had in mind at that time the same scale as the girls, the girls were getting a guarantee of \$22.50 but I didn't mention that.

Mr. Palmer: Mr. Reporter, will you mark this document Respondent's Exhibit 1 for identification.

(Thereupon, the document referred to was marked as Respondent's Exhibit 1, for identification.)

Q. (By Mr. Palmer) I show, Mr. Lugoff, a document marked for reference purposes as Respondent's Exhibit No. 1 for identification and ask you to disregard the pencil notation reading "\$24 per week combined territory," and ask you if you have ever seen that document before? [251]

A. Do you mind if I read it?

Q. No, not at all.

A. I haven't seen it for a long time.

Q. The answer is what?

(Testimony of Leonard Lugoff.)

A. Yes, I wrote that.

Q. What did you do with it after you wrote it?

A. Gave it to Mr. Young.

Q. Was that in connection with this conversation which you have just been relating?

A. Yes.

Mr. Palmer: I ask now that it be admitted as Respondent's Exhibit 1.

The Witness: Now, those notations are not my notations. This is my name here. \$24 a week has nothing to do with it. And this here has nothing to do with that.

Mr. Sokol: What is that?

Mr. Palmer: The words in writing "\$24 per week combined territory," is not in Mr. Lugoff's writing. "Letter to Young," is that your writing or not? A. It may be, I don't know.

Q. You don't know?

A. No, that isn't my writing. That is immaterial.

Q. "On commission basis," interlineated in pencil? A. Yes.

Q. In manuscript writing, is that your writing, reading, [252] "On Commission basis?"

A. Yes.

Trial Examiner Whittemore: Is there any objection?

Mr. Sokol: No objection.

Trial Examiner Whittemore: It is received.

(Thereupon, the document heretofore marked for identification as Respondent's Exhibit No. 1, was received in evidence.)

(Testimony of Leonard Lugoff.)

RESPONDENT'S EXHIBIT 1

(Letter to Young)

Classified salespeople of the Citizen News are at the present time working under conditions where they are not guaranteed a minimum living wage.

Base pay and commissions on lineage run make up the wage as per example:—

No. 1	Territory	—\$15	base	pay	plus	1½¢	per	line
No. 2	“ “	\$12	“ “	“	2¢	“ “		
No. 3	“ “	\$10	“ “	“	2¢	“ “		
No. 4	“ “	\$10	“ “	“	1½¢	“ “		

Working under the above commission when conditions are good an ordinary wage is earned as per example 1936-1937 an average wage of \$34 was earned by No 4 territory. When conditions are fair as at the present time an ordinary wage of approximately \$24 is earned and any slump due to conditions outside of Salesman scope can lower his weekly earnings to \$17, \$18, \$19 a week for a week or so. For example No 4 territory dropped from \$23 before June 3 1939 to \$18 after the 2 week vacation was over.

All of the classified people on the sales staff of the Citizen News have been with the concern long enough to prove their ability to sell classified advertising for the paper.

My personal view on the above matter is that any concern has a normal obligation to pay all their

(Testimony of Leonard Lugoff.)

employees a Guaranteed Living Wage and in case of salespeople working steady on commission basis where the salary fluctuates a Minimum Guaranteed Living Wage.

[Written in pencil in margin]: \$24.00 per week combined territory.

Q. (By Mr. Palmer) You did at that time suggest a wage scale of \$24 a week.

A. I did not suggest anything but a living guaranteed wage. It says right in there, Mr. Palmer, just what I suggested.

Q. I should frame the question differently. What did you mean when you said, "When conditions are fair as at the present time an ordinary wage of approximately \$24 is earned, and any slump due to conditions outside of salesmen's scope can lower his weekly earnings to \$17, \$18, \$19 for a week or so"?

A. I meant to say that under ordinary circumstances we never made a very high wage, that when conditions were good we just made an ordinary guaranteed living wage but when conditions were bad we made less than a guaranteed living wage and I thought that the concern should take the brunt of that and was morally responsible to see we made a living guaranteed wage at all times.

Q. Did you mean by that that normally you earned about \$24 [253] a week?

A. No, I meant to state that at no time did we make an exorbitant wage, that if we were making,

(Testimony of Leonard Lugoff.)

for instance, at times an exorbitant wage, then we could suffer the lapses when we didn't make such a good wage, but the way we were paid at all times when conditions were good, we just made an ordinary fair wage, then when conditions got bad we didn't make that.

Q. You were not at that time earning \$24 a week?

A. I was at that time earning around \$17, \$18 a week. [254]

Q. After you presented this document to Mr. Young, did you have any further conversation with him?

A. No, sir.

Q. None whatsoever?

A. None in relation to that that I can recollect now.

Q. Did you take this in to him personally?

A. Yes.

Q. And he made no comment on it whatsoever?

A. I took it to him and I said, "Mr. Young, this is what you asked for in relation to our conversation earlier in the day," and left it there.

Q. Nothing further was said? A. No.

Q. Did you go back at any time after that?

A. It wasn't necessary to go back. The next Monday Mr. Young or Mr. Tobin had posted on the bulletin board in classified just what the management had given us. [261]

Q. During the time of your conversation was the sum of \$24 a week mentioned?

(Testimony of Leonard Lugoff.)

A. No. In fact, I was surprised after they gave \$24, very much surprised.

Q. Did Mr. Young make any comment about a guarantee at all at the time?

A. No, he didn't make any comment at all. As I recollect it, he told us to tell our story. I told mine, Mr. Allen told his. He told us he would appreciate it if we would write it all out and bring it in to him and he would pass judgment on it.

Q. As a matter of fact, did not Mr. Young tell you that the amount of the guarantee did not bother him, but it was the question of earning it and that if he made the guarantee he would expect those receiving it to earn it?

A. I don't recollect Mr. Young saying anything like that. As I said, we didn't take up the amount of guarantee at any time.

Q. You stated yesterday, I believe, that following that guarantee for only two weeks in a period of 38 weeks you made your guarantee; is that correct? A. That is right.

Q. And that the balance of the time you made less than your guarantee?

A. That is right. Well, I didn't get less, I made less. [262] If that is what you mean to bring out.

Q. Yes, you made less? A. Yes.

Q. Your earnings computed on the basis set forth—— A. Yes.

Q. —yielded less than \$24. A. Yes.

(Testimony of Leonard Lugoff.)

Q. Now, you stated, Mr. Lugoff, yesterday, did you not, that from December, 1939, until the time of your discharge in March, 1940, your earnings gradually increased?

A. I think if you will examine the monthly——

Q. I asked you if you made that statement?

A. Yes. May I ask a question again, Judge?

Q. Yes, certainly.

A. I think I made a statement yesterday that my production increased.

Q. Well, if your production increased, your earnings increased? . A. That is right.

Q. Is that right?

A. Production would be more apparent to show, it would show the increase a little bit more than my earnings would.

Q. I will ask you if on November, for the week ending November 3, 1939, you did not earn \$24.01, one cent over your guarantee? [263]

A. That is right. I am taking your word for it. I haven't got those week by week figures in my mind.

Q. I am asking you if for the week ending November 10th, your earnings did not amount to \$23.33?

A. Well, to be frank with you, Judge, I don't know offhand just what my earnings did amount to. I haven't got them here with me.

Mr. Sokol: The record would be the best evidence.

(Testimony of Leonard Lugoff.)

Q. (By Mr. Palmer) You don't know whether that is true or not?

A. We were getting \$24 guarantee at that time. I kept a record, yes, I think.

Q. Where is your record then, the record on which you base your statement that from the latter part of 1939 up until the time of your discharge that your production gradually increased?

A. My production gradually increased?

Q. Yes.

A. I think Mr. Sokol has my records.

Q. He has your records? A. Yes.

Q Now, I ask you at this time if your production increased would that not increase your earnings?

A. There would be a tendency to increase it but if you are going to show the improvement of my territory between the time [264] of December 1st and March 30th, it would be more apparent by the lineage production.

Q. However, it would be reflected in increased pay checks, would it not? A. Very slightly.

Mr. Sokol: Do you want these records?

Mr. Palmer: Yes.

Mr. Sokol: I will have them marked for identification as Board's Exhibits 20-A and -B.

I may say, Mr. Examiner, this production record is on the back of the original letter of discharge of March 30, 1940, so I will just have that marked Board's exhibit next in order.

(Testimony of Leonard Lugoff.)

(Thereupon, the documents referred to were marked as Board's Exhibits 20-A and 20-B, for identification.)

Q. (By Mr. Palmer) I show you a document marked Board's Exhibit 20-B, for identification, Mr. Lugoff, and ask you if you can identify that?

A. Yes.

Q. I didn't get your answer. A. Yes.

Q. What is that?

A. That is the comparison of lineage production on the different outside territories, the amount of lineage run for the month of March, 1940. [265]

Q. Compiled from what, Mr. Lugoff?

A. Compiled from Mr. Tobin's report.

Q. By you. Is that in your own handwriting?

A. By me, yes, sir.

Mr. Palmer: I ask that that be admitted as Board's Exhibit 20-B.

Mr. Sokol: Do you want that in as your exhibit? That would be Respondent's Exhibit 2.

Mr. Palmer: Well, it has already been marked.

Mr. Sokol: Well, I will offer it as Board's Exhibit 20-B.

Trial Examiner Whittemore: Apparently there is no disagreement, so it may be received as Board's Exhibit 20-B. At this time do you want to offer 20-A, as well as the reverse side of that?

Mr. Sokol: Yes.

Trial Examiner Whittemore: It is received.

(Therefore, the documents referred to heretofore marked "Board's Exhibits 20-A and 20-B," were received in evidence.)

(Testimony of Leonard Lugoff.)

BOARD EXHIBIT 20-A

Week of		Ads		Lines		Week of		Ads		Lines	
1939											
Jan	7	106	—	619	Sept	2	130	—	594		
	14	119	—	662		8	106	—	621		
	21	131	—	783		16	123	—	582		
	28	134	—	792		23	107	—	515		
Feb	4	150	—	865	Sept	29	93	—	476		
	11	136	—	710		Oct	7	119	—	566	
	18	147	—	811	14		113	—	602		
	25	150	—	784	21	117	—	553			
Mar	4	142	—	726	Nov	28	130	—	645		
	11	161	—	794		4	150	—	636		
	18	168	—	806		11	159	—	682		
	25	167	—	767		18	167	—	712		
Apr	1	165	—	772	Dec	25	160	—	1227		
	8	141	—	714		2	163	—	721		
	15	146	—	779		9	153	—	614		
	22	168	—	881		16	133	—	660		
May	29	166	—	796	Jan	23	129	—	612		
	6	187	—	871		30	108	—	507		
	13	179	—	785		6	101	—	537		
	20	177	—	823		13	110	—	599		
June	27	159	—	711	Feb	20	104	—	490		
	2	139	—	710		27	140	—	581		
	(2 weeks vacation)					3	139	—	585		
	24	133	—	524		10	130	—	560		
July	30	129	—	459	Mar	17	134	—	607		
	7	102	—	525		24	129	—	518		
	15	98	—	545		2	109	—	510		
	22	130	—	640		9	120	—	533		
Aug	29	163	—	845		16	129	—	525		
	5	133	—	804		23	159	—	647		
	12	109	—	833		30	140	—	713		
	19	101	—	493							
	26	128	—	572							

(Testimony of Leonard Lugoff.)

BOARD EXHIBIT 20-B

LINEAGE & ADS FOR MAR 1940
OUTSIDE SALESMEN

	<u>Ads</u>	<u>Lines</u>
Reid	1088	11,459
P. Allen	417	2,212
M. McKellar	242	2,465
L. Lugoff	600	2,892

Q. (By Mr. Palmer) I show you the document marked Board's Exhibit 20-A, and ask if you will state, please, what that document is?

A. It is my production record from January, by weeks of ads and lines from January 7, 1939 until March 30, 1940.

Q. When did you compile that document?

A. I kept a record at all times of the lineage that I carried. I compiled it week by week and at the end of my firing or at the time of my firing I merely took it from the slips of [266] paper that I had and put it on this.

Q. Have you the slips of paper in your possession? — A. Not here.

Q. Have you them at home? A. Yes.

Mr. Palmer: I will ask that the witness be requested to bring the slips of paper when we meet Monday morning at 9:30.

Trial Examiner Whittemore: Well, we meet this

(Testimony of Leonard Lugoff.)

afternoon and we will meet tomorrow morning at 9:30.

Q. (By Mr. Palmer) When did you compile the figures on Board's 20B, Mr. Lugoff?

A. I compiled that from a notation that I had from a party who had access to the March figures.

Q. You compiled that sometime after March?

A. Yes.

Q. Someone in the classified department?

A. That was handed to me.

Q. The party obtained the figures for you?

A. Yes, sir, that is right.

Q. And you rewrote it in your own handwriting?

A. Yes.

Q. Have you the original document from which this was compiled?

A. No, not that I recollect, I don't think so.

[267]

Q. May I request you search and if you have them, bring them at the same time you bring the original documents on the other?

A. If I have them I will be glad to.

Mr. Sokol: I am going to object that the original is in the handwriting of some particular employee. I wish Mr. Palmer would refrain himself from probing into some of these matters.

Mr. Palmer: I am not trying to probe into any matter that involves an individual outside of the individuals involved here, but I am trying to probe into facts.

(Testimony of Leonard Lugoff.)

The Witness: I might state, Mr. Palmer, that these figures taken from slips of paper computing the week lineage, was originally checked with Mr. Tobin's report which was available in his desk at all times to see whether our lineage was what it should be. In other words, our lineage was computed, or our commission was computed on the basis of lineage and we used to check that to see whether it was O.K.

Q. Now, the third week of December, the week ending December 2, 1939, according to your figures you produced 163 ads totaling 721 lines; is that correct?

A. Well, the basis that I made saying that my lineage increased, it steadily increased from December, 1939, until March of 1940, that was based on the month to month; in other words, you take this December 2nd, that was the Saturday [268] of the week——

Q. I will give you permission to explain if you will first answer the question. If that is correct for the week ending December 2nd, your production according to your figures was 163 ads and 721 lines?

A. That is right.

Q. Now, I will pause while you make any explanation that you wish of your statement.

A. In my computation of the months of December, January, February, and March, I computed only the lineage that ran in the month of December, in the month of January and the month of February and the month of March.

(Testimony of Leonard Lugoff.)

Q. Yes.

A. This 721 includes practically all of November. You see what I mean?

Q. Yes.

A. It is 7 days ending December 2nd, and most of those six days—that is with six days in November.

Q. Now, the month of November, your lineage was much heavier than the lineage in the month of December?

A. It is always. It is the periodical fluctuation. It includes your Thanksgiving advertising and you will notice if you compare your records of November, 1938, you will find the same bulge in lineage that you find in 1939.

Q. The lineage dropped off November to December? [269]

A. Yes.

Q. Take the month of January then, did the lineage for January increase or decrease over the month of December?

A. May I ask Mr. Sokol something?

Q. Yes.

A. Mr. Sokol, I gave you the figures that I had on the back of a letter where I had computed the lineage by the month and showed according to my figures a decided increase or a steady increase. It was a letter that you had written to me asking me to come to the office.

Mr. Sokol: Well, we can get that after lunch.

(Testimony of Leonard Lugoff.)

Trial Examiner Whittemore: Yes. I think this is a good point to adjourn.

We will recess until 1:30.

(Whereupon, at 12:00 o'clock noon, a recess was taken until 1:30 p.m.) [270]

(Whereupon, at 1:30 o'clock p. m. the hearing resumed, pursuant to recess.)

Trial Examiner Whittemore: The hearing will please come to order.

Mr. Sokol: With Mr. Palmer's permission I want to ask the witness a few questions. Is that agreeable?

Mr. Palmer: Yes.

LEONARD LUGOFF,

a witness called by and on behalf of the National Labor Relations Board having been previously duly sworn, was examined and testified further as follows:

Re-Direct Examination

(Continued)

Q. (By Mr. Sokol) Mr. Lugoff, have you been employed since March 30, 1940?

A. Yes, I have.

Q. When did you to work?

A. About May 1, 1940.

Q. Where? A. Lincoln Heights Review.

Q. That is a newspaper?

A. That is a throw-away publication.

(Testimony of Leonard Lugoff.)

Q. Was that a permanent or temporary job?

A. Well, it is a temporary job.

Q. What do you do?

A. I have been developing classified. They did not have [271] any classified on the paper when I started and I have been developing it.

Q. Have you ever since that time made anything comparable to \$24 a week?

A. No. In fact, I have been financing myself for the past few months that I have been out on the paper and have made very little.

Mr. Sokol: That is all.

Do you want your job back at the Citizen-News?

A. Yes.

Re-Cross Examination

Q. (By Mr. Palmer) When you said the job on the Lincoln Heights Review is a temporary job, what did you mean, Mr. Lugoff?

A. It has developed into a temporary job. I took it with the idea that I might make something out of it but the way conditions are now I am not able to make anything out of it.

Q. Well, it is temporary only because of your own election; is that it?

A. It is temporary because I am not making a living wage out of what I make.

Q. It is temporary while you are looking for something better; is that it? A. Yes.

Q. When you say you are earning nothing comparable, are [272] you on a commission basis?

(Testimony of Leonard Lugoff.)

A. I am on a 40 per cent commission.

Q. And you lose money on that?

A. Well, when I said I lost money, I am financing myself. The first couple of months that I was on the job I lost money. Now, I am making a profit, a small profit, but the profit is so small that I cannot pay my rent, light, food, and necessary expenses.

Q. You got 40 percent of every ad that you sold, Mr. Lugoff?

A. No, I got 40 percent of every ad that I collected for.

Q. You had to do the selling and the collecting?

A. That is right.

Q. Did you sell some ads?

A. Yes, I was very fortunate in selling a lot of ads.

Q. You sold a lot of ads?

A. A lot of ads.

Q. What about collecting them?

A. It was not so good.

Q. What percentage of the ads that you sold did you collect?

A. May I ask a question, Mr. Palmer?

Q. Yes.

A. I don't see where this ties in with the Citizen-News.

Mr. Sokol: I haven't objected. You just answer the question and it is up to me to object.

The Witness: I beg your pardon. I didn't understand [273] that. What was that question again?

(Question read by the reporter.)

(Testimony of Leonard Lugoff.)

The Witness: About 50 percent.

Q. (By Mr. Palmer) Then you did earn some money?

A. Oh, naturally, I earned some money.

Q. About how much?

A. Is there any certain month that you want the figures for?

Q. Yes. You started in May. How much did you earn in May?

A. I earned in May exactly—I will tell you exactly what I earned, Mr. Palmer.

Q. Yes.

A. If you are very much interested, I am proud to know that you have an interest in what I am doing. In May I turned into the company \$51.92. Of that I got 40 percent.

Q. That is for the month of May?

A. Yes.

Q. How did you do for the month of October, we will say?

A. In the month of October I turned in—there is a little lap-over here, part of the collections were made the 1st and 2nd and 3rd of November, \$228.

Q. Of that you got 40 percent?

A. Of that I got 40 percent.

Q. \$88? A. That is right.

Q. Now—— [274]

A. I might say in regard to that, I paid my own expenses.

Q. You had no automobile allowance you mean?

(Testimony of Leonard Lugoff.)

A. There was no allowance.

Q. How much for September? A. \$206.

Q. August? A. \$168.72.

Q. July? A. \$144.32.

Q. June? A. \$121.76.

Q. Is there any difference between that territory and the territory that you worked on in Hollywood?

A. The difference is this: That I was confined in Hollywood to a certain territory that had not only myself working it but the girls working it and Mr. Reid covering part of it and a lot of the accounts being—or some of the accounts, you might say, being placed downtown. Outside of that there was no difference.

Q. Over in this territory you had no competition on your paper? A. No.

Q. You could go wherever you wished?

A. Yes, I could go wherever I wished. I got credit on everything that came in. I billed it up and everything [275] that came to the paper on classified I got credit for.

Q. You were the only solicitor in the paper?

A. Only classified solicitor.

Mr. Sokol: Is that a weekly?

The Witness: It comes out twice a week.

Mr. Sokol: Free, is that it?

The Witness: Yes.

(Testimony of Leonard Lugoff.)

Q. (By Mr. Palmer) Now, after Mr. Young and Mr. Tobin had set up a minimum guarantee of \$24, Mr. Lugoff, you said that you composed a contract similar to a contract on the Evening Herald?

A. That is right.

Q. Have you a copy of that contract?

A. I think so.

Q. After you composed that, what did you do with it?

A. The reason I composed that copy, Mr. Palmer, was that I wanted to show the people that I was contacting in classified something concrete; in other words a petition by itself didn't mean anything to them. I had fallen down on that. So I got the idea of putting in form a contract showing salaries for the phone room, salaries for the outside, revising territories and making suggestions on what I thought would bring more income into each of the respective persons' hands.

Q. How many employees did you show that to?

A. The same number that I showed the first petition to. [276]

Q. Six besides yourself?

A. Yes, or I might say five or six, I don't remember exactly.

Q. You showed that under similar conditions, you handed it to them?

A. Yes, and let them peruse it at their own free time.

(Testimony of Leonard Lugoff.)

Q. And talking with them about it at luncheon?

A. Yes.

Q. And places where Mr. Tobin wouldn't see them talking with you about it, is that right?

A. That is right.

Q. What did you ask these employees to do about this contract?

A. The contract was merely something concrete. I just asked them to read it over and I said, "If we get the Guild to act as a bargaining agent for us, this is a sample of what we can ask for and it will benefit everybody in the classified."

Q. You were asking the members to designate the Guild as bargaining agent to endeavor to secure that contract; is that it?

A. Not that particular contract. That was merely an example of what we could ask for. I showed it because I was trying to sell something that wasn't concrete before, that was just in my mind and I put it in writing, thinking it was a little bit easier to sell something that was concrete. [277]

Q. How did you come out in selling that?

A. I still was the same place I started after the first petition.

Q. You received while working under Mr. Tobin call sheets, did you not, Mr. Lugoff?

A. That is right. For quite a long while we had to put down the list of calls we made daily and we did that for I imagine over a period of two years at least.

(Testimony of Leonard Lugoff.)

Q. You filed a detailed report of the calls that you made with Mr. Tobin? A. Yes.

Q. But as against that did not Mr. Tobin give you lists at regular intervals and calls that he wanted you to make? A. He did.

Q. Did you always make those calls?

A. To the best of my ability.

Q. To the best of your knowledge did you always make them?

A. The reason I said to the best of my ability, Mr. Palmer, is because there was a certain amount of routine work to do on a territory.

You had to service accounts besides getting new accounts and to the best of my ability I made these calls after servicing the accounts on my territory.

Q. Did you make the calls that Mr. Tobin requested you to make? [278]

A. Practically all the calls, yes.

Q. Do you recollect any calls that you did not make that he asked you to make?

A. Yes, there were calls. As I said, there was a certain amount of work to be done on the territory servicing accounts and there were times when he gave me calls that I didn't make all of them.

Q. You mean that you didn't have time to make them?

A. That is what I am trying to insinuate.

Q. Well, did you on August 16th make a call on an apartment house at 1738 El Cerrito Place as requested by Mr. Tobin?

(Testimony of Leonard Lugoff.)

Mr. Sokol: What year?

Mr. Palmer: 1939.

Mr. Sokol: Just a moment, I object to that. There is no allegation in the Answer that the man was discharged for that reason, for the reason that he didn't make the call.

Trial Examiner Whittemore: Well, I will permit the witness to answer this but I suggest that there can't be a great deal of weight in it if you are just going to pick a date and names out of the air.

Mr. Palmer: I would like to ask the witness in reference to his work for the month of August, 1939.

Trial Examiner Whittemore: Well, you are offering that in support of your claim of non-production on the part of the witness, is that it? [279]

Mr. Palmer: Yes, your Honor. It relates to non-production.

Trial Examiner Whittemore: All right. Just make it as brief as you can.

Q. (By Mr. Palmer) Mr. Lugoff, the number of calls that Mr. Tobin asked you to make never exceeded six, did they?

A. Oh, yes. Yes, they sometimes were around six, sometimes he gave me calls to cover in an entire week.

Q. Yes, but I mean for any particular day they never exceeded six?

A. That may be true, I don't recollect that.

(Testimony of Leonard Lugoff.)

Q. And in some days there were as low as three calls that he requested you to make?

A. I imagine that was so. I don't recollect—

Q. Yet on many of those days you did not make any of the calls that he requested you to make?

Mr. Sokol: I object to that as calling for the conclusion of the witness as to any of those days.

Trial Examiner Whittemore: I will overrule the objection and you may answer.

The Witness: That I deny.

Q. (By Mr. Palmer) Your testimony is that you always made some of the calls? A. Yes, sir.

Q. And your report sheets would show you whether or not you [280] made the calls?

A. Yes, sir.

Q. Which Mr. Tobin—

A. My report sheets would show it but those calls, personally I don't see—those calls were usually sometimes handed back to Mr. Tobin, sometimes not handed back and thrown in the waste basket. I don't know how you got hold of those calls. I certainly don't remember myself. There was no specific mention on the report that they were particular calls that Tobin gave me.

Q. If you made the calls, however, your report sheets given to Mr. Tobin would show that you made the calls, would they not?

A. Yes, that is right.

(Testimony of Leonard Lugoff.)

Mr. Palmer: May this be marked Respondent's Exhibit 2 for identification?

(Thereupon, the document referred to was marked as Respondent's Exhibit No. 2 for identification.)

Q. (By Mr. Palmer) I show you document marked Respondent's Exhibit 2 for identification, Mr. Lugoff, and ask you if you can tell us what that document is.

A. That is a list of calls I made August 16th, it looks like, 1939.

Mr. Palmer: May I have this document marked Respondent's Exhibit 3 for identification? [281]

(Thereupon, the document referred to was marked as Respondent's Exhibit No. 3 for identification.)

Q. (By Mr. Palmer) I show you now document marked Respondent's Exhibit 2 for identification and ask you if you can tell us what that is.

A. I never saw that before—wait a minute—I never saw this before to be frank with you. To the best of my recollection I have never seen this.

Q. Well, you have testified that you received from Mr. Tobin sheets of instructions of calls that he desired you to make?

A. Now, just a minute, Mr. Palmer. Were those in that order?

A. No, if I said sheets of instructions, I move to correct that. Mr. Tobin handed me slips of paper

(Testimony of Leonard Lugoff.)

with ads that he used to get from the downtown papers that were cut out ads, that were cut out and pasted on slips of paper. He used to get a big bunch of them every week and he would pick several of these out and say, "Make these calls," but I don't recollect seeing anything like this.

Q. At one time you had a conversation with Johnny Badovinac. Was that in reference to this contract?

A. No, it was in reference to a rumor that Johnny Badovinac was spreading that the management was going to close down the plant if the Guild didn't stop asking for unreasonable things [282] in their negotiations.

Q. When did this conversation take place?

A. It took place sometime during the month of August at a time, Mr. Palmer, when the Guild in its negotiations was accusing the management of spreading rumors of intimidation.

Q. This was August 1939?

A. August, 1939.

Q. Was there a contract then being negotiated?

A. Yes.

Q. A contract for the period of July 1, 1939, to 1940?

A. I think that is what it was for.

Q. And you say the Guild accused the management of spreading rumors that it was going to close down?

(Testimony of Leonard Lugoff.)

A. The Guild at that time was accusing the management of rumors going around the plant intimidating employees.

Q. That was in connection with the conferences, negotiations and conferences being held with Mr. Sargent? A. That is right.

Q. And the Guild negotiating committee?

A. That is right.

Q. Do you recall any meeting when anything was said about that?

A. I don't recall any specific meeting. I know it was taken up two or three times and for some reason, of course, a lot of that testimony was above my head. The management [283] didn't seem, or Mr. Sargent didn't seem to pay any attention to it.

Q. Didn't Mr. Sargent deny that the management was making any such a threat?

A. Mr. Sargent didn't deny it but he claimed he didn't know anything about it and was going to take it up with you.

Q. In the course of negotiations was any threat made by Mr. Sargent?

A. Oh, Mr. Sargent didn't make the threats. You probably misunderstood me, Mr. Palmer. I said the Guild accused the management of intimidating the employees of the Citizens-News through rumors going through the plant that the Guild people would be eventually fired, that the plant was going to close down, and the Guild people would be continually harrassed in their jobs and so forth and so on.

(Testimony of Leonard Lugoff.)

Q. And I asked you if at any negotiating meeting those accusations were made?

A. Yes, the Guild made it to Mr. Sargent.

Q. To Mr. Sargent. And Mr. Sargent made no reply to it?

A. Mr. Sargent made a reply to this effect, that he didn't know anything about it, that he would be glad to take it up with the management.

Q. Didn't Mr. Sargent notify the Guild that the management was making no threats whatsoever?

A. I don't recall an answer being given to the Guild on that. [284]

Q. Then you went to Johnny Badovinac about those charges?

A. Well, there was one particular rumor that was coming from Johnny Badovinac it so happened, at that time.

Q. And you went to him about it?

A. Yes. I considered myself a particular friend of Johnny's and I went, all in good faith to him, and asked him if he was saying such a thing.

Q. Where was Johnny at that time?

A. He was right at his desk.

Q. At his desk? A. Yes.

Q. Johnny's desk is in that section of the office known as the display section; isn't it?

A. Yes, sir.

Q. Now, what time of day was this?

A. It is hard for me to recall what time of day it was. I think it was around—this is merely sup-

(Testimony of Leonard Lugoff.)

position on my part—it was around, we will say, around 11:30.

Q. 11:30 in the morning? A. Yes.

Q. Are there other display desks around Johnny's?

A. Yes, there is. At that time Moulin sat next to Johnny. Montrose sat next to Johnny.

Q. Moulin on one side and Montrose on the other?

A. Yes. And across the desk was Joe Price and Mr. Braxdale. [285]

Q. Two desks across from Johnny's and one desk on each side of Johnny's?

A. The desks were back to back.

Q. Making a total of five desks in the group?

A. Yes.

Q. Johnny's being one of the five?

A. That is right.

Q. Now, was Moulin at his desk at that time?

A. That I can't recollect. The only recollection of people that were around there I have was the people that I had the argument with and that were going to bet me hard earned money that such a thing was going to take place.

Q. Was Montrose at his desk?

A. He may have been, I don't recall.

Q. You don't recall a single display man who was at his desk?

A. I know there were other people in the argument. But there was a little heat and the only thing

(Testimony of Leonard Lugoff.)

I recall is that such a thing took place and the participants in the argument. George Palmer was one. That is, he listened very quietly until after it was all over, then he backed up Johnny and not only backed him up verbally but was willing to bet money on it.

Q. Was Johnny standing up while you were talking with him? A. Sure.

Q. Was he seated when you went over to his desk? [286]

A. No, that I don't recollect. I don't think he was. I think he was standing up.

Q. Do you recall anybody else besides George Palmer being there?

A. No. As I said it is something that the only thing I can recall is the immediate people who took part in it.

Q. What was the first thing said?

A. I asked Johnny—I said, "Johnny, are you giving out the rumor that the management said the plant is going to close down if the Guild keeps on with their unreasonable demands and their negotiations?" Do you want me to go on?

Q. Yes, the whole conversation.

A. He said, "Yes."

I said, "Johnny, I have been up to every one of those negotiations and I know personally that the Guild is asking nothing unreasonable, that at the most they are asking for a few dollars raises for some of the people and they want a little protection

(Testimony of Leonard Lugoff.)

for Helen Brichoux and Karl Schlichter; they want one of the office boys classed as a reporter," and I said, "outside of that, there is no demands that are unreasonable." And I said, "It is very foolish to say that the management would close down a plant employing so many people as the Citizen does over such a thing."

I said, "What you are doing is intimidating the people and getting a hatred up with them against the union," and I said, [287] "If you persist in doing that," I said, "to my mind all you are is a company stooge."

Q. You didn't believe that Johnny's charges were true, did you?

A. Having first hand information as to what took place in the negotiations I didn't see any truth in the things that Johnny was saying.

Q. And you told him that they were very foolish?

A. I told him it was wrong. I told him not only it was wrong but it was intimidating people, getting them fearful of their jobs and such a thing, even if he knew it to be true, would be best to keep to himself. And I said, "When you don't keep it to yourself, you are in a class, to my mind, of a company stooge."

Q. Did you tell him that the charges were very foolish or the threats were very foolish, the rumors were very foolish?

A. I tried to intimate such.

(Testimony of Leonard Lugoff.)

Q. Did you tell him that you thought so?

Mr. Sokol: Thought what?

Q. (By Mr. Palmer) That the charges or the threats or rumors were very foolish?

A. I tried to tell him that. I tried to explain why I thought they were very foolish.

Q. Where is George Palmer's desk in relation to Johnny's desk? [288]

A. George Palmer's desk is about 15 feet away.

Q. In another section of the general office?

A. Yes. George Palmer's desk is on the other side of my desk.

Q. And what is George Palmer's work?

A. George Palmer at that time was credit manager of classified credits.

Q. Of all classified credits?

A. Yes. There were a few accounts that were billed monthly that display had charge of. All the others were under George's jurisdiction.

Q. What did his work consist of?

A. His work consisted of looking over the copy and passing on the advisability of crediting the account and billing it.

Q. Did he have charge of the collections or did he just say whether or not credit should be extended?

A. I think—I don't know for sure. I think he had charge of the classified collectors. I am pretty sure he had charge of the classified collectors as well as O. King credits.

(Testimony of Leonard Lugoff.)

Q. Do you know whether or not he had anything to do with the hiring or engaging of people to work with him?

A. I don't know whether he hired the credit collectors or not.

Q. Who is the credit manager of the Citizen-News? [289]

A. Mr. Smith.

Q. R. B. Smith? A. Yes.

Q. Do you know who his assistant is?

A. No. I haven't the slightest idea who the assistant is. I know your display credits seem to come from three different sources there; that is, there is Mr. Smith at the head of the entire group; Mr. McCormick who is a credit manager, and Mr. Frank Gilman, who was then another display credit manager, and Mr. George Palmer who was classified credit manager.

Q. Three men working under Mr. Smith?

A. Under Mr. Smith.

Q. In delegated departmental work?

A. Yes.

Q. Mr. Smith himself passes on credits, does he?

A. Mr. Smith to my mind passes on credits when the others decide that they are not competent to judge them, then they take it to Mr. Smith.

Q. Now, George Palmer and Johnny Badovinac are the only persons that you recall being present at the time of this conversation?

(Testimony of Leonard Lugoff.)

A. Yes. I may state that that argument got a lot of publicity, that practically—well, it seemed to me that everybody in the plant knew about it because I was stopped [290] on the street after it happened and the people gave me their views on the matter.

Q. By whom were you stopped on the street?

A. Well, Floyd Simonton was one, Patricia Kiloran was another.

Q. They are Guild members, both of them?

A. They are Guild members.

Q. Anybody else?

A. I can't recall anybody else at the present time but it seemed that everybody was in on it.

Q. Did Mr. Tobin ever tell you that he heard the conversation? A. No.

Q. Did he ever refer to the conversation?

A. No.

Q. Did Mr. Young ever tell you that he heard the conversation?

A. I don't believe Mr. Young has stopped me for anything in the seven years that I have been there except for "How do you do" and most of the time he didn't say that. That is no reflection on Mr. Young, I just say I never—

Q. You mean to say he did not ever talk to you about this conversation?

A. No, he wasn't in the habit of stopping and talking to me about anything.

(Testimony of Leonard Lugoff.)

Q. Do you know whether or not he was even in his office when you had the conversation? [291]

A. I don't know. As I said, there was a little excitement around there. Johnny Badovinac at one time was a pugilist and I had an idea that I might get a punch in the nose during the conversation so I was just interested in those people that took part.

Q. You attended most of the Guild negotiations, their meetings? A. Yes.

Q. Other Guild members were present at those meetings? A. Yes, sir.

Q. The Citizen-News unit Guild members?

A. Yes, sir.

Q. Are those others still in the employ of the Citizen-News?

Mr. Sokol: That is objected to. There is no statement as to who they were yet.

Mr. Palmer: Well, I can ask him who they were. I was trying to keep away from any involvement in names.

Mr. Sokol: I will stipulate with you that some of those Guild people who attended the meetings are still employed. X

Q. (By Mr. Palmer) What other Guild members were present at the negotiating meetings?

A. What other Guild members?

Q. Yes.

Mr. Sokol: Now, Mr. Examiner, you see we have

(Testimony of Leonard Lugoff.)

the minutes of these meetings and I can tell you the names of the—— [292]

Mr. Palmer: All right.

Trial Examiner Whittemore: Suppose we do that. Then you can stipulate to it.

Mr. Sokol: On July 19, 1939: Herman Reuter, L. Lugoff, Helen Brichoux, Lida Livingstone, Roger Johnson, Patricia Killoran, Karl Schlichter, Lowell Rodeling, Cliff Wessellman, Floyd Simonton, Elizabeth Yeaman. Guild unit negotiators: Jack Barry, Tom O'Connor, Urcel Daniel, John Cohee.

July 25, 1939—I may say at that first meeting on July 19th, for the management: Willis Sargent and Harold E. Swisher and T. Harwood Young.

Guild members: Floyd Simonton, Selby Calkins, Stanley Speer, Roger Johnson, Pat Killoran, Helen Brichoux, James Fisher and Leonard Lugoff.

August 7, 1939, for management: Willis Sargent, Harold E. Swisher.

Guild negotiators: Morgan Hull, Tom O'Connor, John Cohee.

Guild members: Leonard Lugoff, Floyd Simonton, Lowell Rodeling, Roger Johnson, Stanley Speer, Jim Crow, Helen Ewing, Carl Combs, Harry Minishian, Elizabeth Yeaman, Lida Livingstone.

August 19, 1939, for management: Willis Sargent, Harold Swisher, T. H. Young. [293]

Guild negotiators: Urcel Daniel, Tom O'Connor, Jack Barry, John Cohee.

(Testimony of Leonard Lugoff.)

Guild members: Johnson, Yeaman, Brioux, Lugoff, Crow.

August 31, management: Willis Sargent, Harold Swisher.

Guild negotiators: Phinney, O'Connor, Cohee.

Guild members present: Herman Reuter, Floyd Simonton, Lugoff, Schlichter, Speer, Livingstone, Killoran, Rodeling, Minishian, Combs, Ewing, Yeaman, Brichoux.

And then there was one meeting on March 11, 1940, management: Sargent—that was on the Killoran case—Guild negotiators: Cohee, Barry, Daniel, Washburn. The Guild members present I don't have for that meeting.

Is that all stipulated to?

Mr. Palmer: Yes, sir. We so stipulate.

Q. (By Mr. Palmer) Helen Brichoux is still working for the Citizen-News?

A. So far as I know she is.

Q. Patricia Killoran is still working for the Citizen-News?

A. So far as I know.

Q. Jim Crow is still working for the Citizen-News?

A. I think so.

Q. Lida Livingstone?

A. I am not acquainted with Lida Livingstone. I don't know whether she is working there or not.

[294]

Q. She was at some of these meetings. You don't know her?

(Testimony of Leonard Lugoff.)

A. I know her but I mean not very well.

Q. Floyd Simonton? A. Yes.

Q. He is still working for the Citizen-News?

A. He is.

Q. Helen Ewing? A. That is right.

Q. Carl Combs? A. That is right.

Q. Minishian? A. Yes.

Q. Herman Reuter? A. That is right.

Q. Lowell Rodeling? A. That is right.

Q. Cliff Wessellman? A. That is right.

Q. Stanley Speer? A. Correct.

Mr. Sokol: May it be stipulated that all of those are editorial people except Miss Brichoux?

Mr. Palmer: It may be stipulated that they are all covered by the editorial contract. [295]

Mr. Sokol: Thank you.

Q. (By Mr. Palmer) You referred yesterday to the production of John Starling, a classified solicitor. Do you know who he is? A. Yes.

Q. Will you tell us about his work?

A. I don't know about his work.

Q. You don't know anything about his work?

A. Except that he is employed over in the Valley doing a little classified, a little news, and a little display.

Q. He has charge of the San Fernando office of the Citizen-News?

A. He may have, I don't know.

Q. You don't know where these records came

(Testimony of Leonard Lugoff.)

from that were handed to you by someone else from which you have made your compilations?

A. I understood they come from your monthly report on classified production for the month of March.

Q. You had some other months besides the month of March, didn't you?

A. My figures came from Tobin's desk. I didn't have any comparison that was a comparison of other productions besides my own. My own figures on my own particular production was compiled from Tobin's report that we all had access to.

Q. Now, you testified this morning in handling classified [296] accounts that you sought to get them signed up on monthly contracts?

A. Yes. That is the correct way according to Hoyle to sell classified advertising.

Q. When you left the territory the ads were to keep on running?

A. There is a tendency for your territory to stay up that way indefinitely.

Q. Indefinitely. Now, I would like to have you be a little more definite than that. For how long a period do you think a territory could get along without a salesman and not suffer?

A. Well, I have no experience on that. I notice one of the records brought up a week later showed no difference when nobody was on the territory. It showed no difference in the lineage comparison.

(Testimony of Leonard Lugoff.)

Q. How about the second week and the third week and the fourth week?

A. I really don't know, to be frank with you. I would say offhand at least a month.

Q. That is, business would continue without any attention without any loss in volume at all?

A. No, there would be a slight loss but there wouldn't be any great loss.

Q. Then if it ran that easily why did you not have time to [297] make the calls, all of them that Mr. Tobin asked you to make?

A. I am going into the supposition that during that time there was nobody on that particular territory, that the accounts were serviced, that somebody had to service them. That is why during vacation no matter how good a territory there is, for instance, when Mr. Reid was on his vacation, I took over that, or when Mr. Allen was on his vacation, we divided the territory and there was no particular selling. The account had to be serviced.

Q. Then someone is required on the territory at all times? A. To service.

Q. In order to keep the volume up?

A. That is right.

Q. In March, 1940, you circulated another petition? A. Yes, sir.

Q. Have you a copy of that petition?

A. Yes, sir.

Q. Will you produce that, please?

(Testimony of Leonard Lugoff.)

Mr. Sokol: That is in evidence.

Mr. Palmer: I don't think so.

Let me ask the witness first: You first circulated one petition, Mr. Lugoff? A. Yes.

Q. To which you got three signatures besides yourself? A. Yes. [298]

Q. Besides your own? A. Yes.

Q. Then you circulated a contract?

A. Yes.

Q. Then you circulated another petition?

A. Yes.

Q. And in Board's 19 the third petition, the third document that you circulated?

A. I imagine it is. I don't remember what 19 is.
(Counsel hands document to witness.)

The Witness: Yes.

Q. You obtained no signature to that petition at all? A. I didn't have any time to.

Q. Now, let's see, you started to circulate it on March 15th? A. Just about that time, yes.

Q. And you were discharged on March 30th?

A. That is right.

Q. You had no time to circulate it at all?

A. I circulated it but here is the thought that I was getting over in that petition: I was a little bit enthused about it and I went around and sold the idea. Of course, it embodied a statement that you had made from time to time that you would be willing to meet with any majority or would be glad to

(Testimony of Leonard Lugoff.)

meet with any majority in any department and nego- [299] tiate a contract with them. I embodied that in the petition and I tried to sell the idea. I didn't ask anybody to sign it. I just asked them what they thought of it.

Q. Yes.

A. That of making such a contract of things that you had already given us. You already promised severance pay, vacation pay, sick leave, and things that we already had. In other words, I wanted to see what classified would think of such a proposition and by the time I got through explaining it to everybody—and I might add in this petition on account of my enthusiasm I didn't confine my efforts to those people that were a little bit fearful about their jobs, I went just a little bit further and showed it to people that I never showed the others to before.

Q. People outside the classified department?

A. No, inside the classified department.

Q. Proceed.

A. And I didn't ask anybody to sign it. I showed them what it was, what I had in mind and asked them what they thought about it and when I was all set to go out and try to get signatures on it, it was just a day too late.

Q. How many told you that they thought it was good?

A. Everybody I showed it to thought it was good.

(Testimony of Leonard Lugoff.)

Q. How many did you show it to?

A. I showed it to, I think, all but three in the department. [300]

Q. That would be nine then of the department you showed it to, eight other than yourself?

A. Yes.

Q. You showed it to eight others and they thought it was a good petition?

A. Yes, because it was doing away with that fear angle. It was just asking for something we had already got and it seemed to me effective that way.

Q. When you wrote here: "Workers of the classified department of the Hollywood-Citizen-News, believing, as the management has stated from time to time, that all workers of all departments in the Citizen-News are entitled to the right and privileges—"

Mr. Sokol: Are you going to read that?

Mr. Palmer: —"obtained by the editorial department in its contracts with the management—"

Mr. Sokol: Mr. Palmer, I think it is unnecessary to read the document.

Mr. Palmer: I am going to stop there for this question and then I will proceed. After I have finished my question, Mr. Sokol, I will be very glad to pause while you make your objections.

Mr. Sokol: Well, I just wanted to say our general procedure is when documents are in evidence that we don't read them. It saves time because they are already in evidence. [301]

(Testimony of Leonard Lugoff.)

Trial Examiner Whittemore: Well, let's hear his question.

Mr. Palmer: Mr. Reporter, will you refer to the question as far as I got?

(Record read by the reporter.)

Q. (By Mr. Palmer) When you wrote that, Mr. Lugoff, you sincerely believed in the truthfulness of that statement? A. Yes.

Q. You did? A. Yes.

Q. When you wrote these words: "Taking the management at its word when it further states that they, the Citizen-News, although believing that all the workers in all departments are entitled to these rights and privileges, will not bind themselves in any way to recognize such rights and privileges until the time that such departments do obtain a majority of workers in their respective departments and do then petition a bargaining agent under the National Labor Relations Act."

Did you sincerely believe in the truthfulness of that statement? A. Yes.

Q. You have heard the management state that all the workers of all the departments are entitled to the rights and privileges contained in the Guild contracts, have you?

A. That is the supposition. [302]

Q. Well, you had heard the management state that? A. Yes.

Q. And you believed it?

(Testimony of Leonard Lugoff.)

A. It hadn't been knocked out of my head at that time; yes, sir.

Q. Well, is it knocked out of your head now?

A. Well, it is inclined to be shaded a little bit.

[303]

Q. All right, proceed and explain.

A. I believe, Mr. Palmer, I was fired on account of my union activity. Up to the time I was fired I held with that.

Q. Is there anything in this document that says anything about union activities?

A. No, but in order to get a majority in your department you have to have union activities. You have to have something to go out and get that majority. That is what I was doing.

Q. You received severance pay, didn't you?

A. That is right.

Q. Under the identical provisions that are set forth in the Guild contract?

A. Yes, sir. There was nothing binding, as I stated, in that contract that you had to give me those. That is the point I was trying to bring out.

Q. Do you know whether or not when others have been discharged not covered by the Guild contract, whether they have received the severance pay as called for in the Guild contract?

A. To the best of my knowledge, since the Guild has started you have paid severance pay to people who were fired.

(Testimony of Leonard Lugoff.)

Q. And we paid severance pay before the Guild was started, didn't we?

A. If you call two weeks severance pay, it can be classed as [304] such.

Q. Well, didn't you say that you first got four weeks severance pay on your first discharge?

A. The Guild was already organized in editorial at that time.

Q. Yes.

A. Very much so, in fact, they had a contract.

Q. Don't you know that the same severance pay scales as you were paid in August, 1938, had been in effect for several years?

A. No. I was under the impression that that severance pay, a week for every week that you had been there, come into effect when the Guild was established in the Citizen-News.

Q. That was your impression?

A. That was my impression.

Q. And it might have been wholly wrong?

A. I don't think I was wrong.

Q. Well, we will show——

A. I have been around the Citizen-News quite a while.

Q. We will show that you were, Mr. Lugoff.

A. I was?

Mr. Sokol: Let counsel argue, but please don't do it yourself, Mr. Witness.

Q. (By Mr. Palmer) Long before the Guild

(Testimony of Leonard Lugoff.)

there had been two weeks vacation allowed to employees of the Citizen-News? [305]

Mr. Sokol: What is the materiality of that?

The Witness: That is——

Mr. Sokol: I object to that on that ground.

Mr. Palmer: I think it is material in view of the witness' testimony, who is seeking to imply that——

Mr. Sokol: I will withdraw my objection. I assume there is only one question or so along that line.

The Witness: The only thing, Mr. Palmer, that I meant to imply there was that without a contract in your immediate department that you were just promising those things, that there was nothing to uphold it.

Q. (By Mr. Palmer) You thought that a written contract would be better for you? A. Yes.

Q. It would be more businesslike?

A. It would not be businesslike, it would be more binding.

Q. That is all right. I have no objection to the opinion of Mr. Lugoff. I think you are right.

Now, you had a conversation with Florence Whitebook in reference to this petition to which we have just referred, did you not, Mr. Lugoff?

A. Yes.

Q. She asked you in substance why you wanted to stick your neck out?

A. That is right. [306]

(Testimony of Leonard Lugoff.)

Q. Where was that conversation held?

A. In the classified department phone room.

Q. Was anybody else present?

A. There may have been some people present, I don't recollect, but I talked privately to Miss Whitebook and asked her what she thought of the petition.

Q. Did she tell you what she thought of the petition? A. No, but she told me——

Trial Examiner Whittemore: I believe that was stricken this morning.

Mr. Palmer: If it was stricken, that is my fault. I believe your Honor is right.

Trial Examiner Whittemore: Well, I didn't want to take up a lot of unnecessary time.

Q. (By Mr. Palmer) Did you talk with Frank Gilman about it?

A. Yes. I beg your pardon, I didn't talk to Frank Gilman about that petition.

Q. You did have a talk with Frank Gilman about the Guild?

A. About the Guild, or he had a talk with me about the Guild and the Guild's activities.

Q. What did Frank Gilman say?

A. Frank Gilman said that he had it from——

Q. What is his work?

A. What is his work?

Q. Yes. [307]

A. He is credit manager of some of the display accounts, or was credit manager at the time.

(Testimony of Leonard Lugoff.)

Q. What do you mean by credit manager? You still mean that he works under Mr. Smith, don't you?

A. He works under Mr. Smith and passes on credits.

Q. Mr. Smith is the credit manager?

A. Yes.

Q. And Mr. McCormick is his assistant?

A. That, I don't know. They all had titles of credit manager. I know Mr. Smith was the head of it. I don't know that there was any assistant manager to Mr. Smith.

Q. You knew Mr. Smith was over them?

A. I knew Mr. Smith was final word in anything in credits.

Q. You knew he was over all those men?

A. They were under him.

Q. They were under him?

A. That is right.

Q. You knew that Mr. Gilman had been discharged?

A. I didn't know that he had been discharged, no.

Q. Now, Mr. Gilman is not a Guild member, is he? A. No, very emphatically not.

Q. You didn't know whether he was discharged after you were discharged? A. No.

Q. The Monday morning after your last discharge, when you [308] went in to see Mr. Tobin

(Testimony of Leonard Lugoff.)

and you told Mr. Tobin that you thought the discharge was as much of a surprise to him as it was to you, did Mr. Tobin make any comment to you at that time?

A. He didn't make no comment at all.

Q. None whatsoever?

A. Not on the firing. I didn't ask him for any comment. I merely stated what I did this morning, that is was as much a surprise to Tobin as to myself and I knew that he didn't know what calls there were to be made that morning and what changes of copy there were to be put through and I would be very glad to make them and make a list of the calls that were supposed to be made.

Q. You didn't at that time meet the young man who took over your route?

A. I don't think there was anybody that took over my territory for at least a week, maybe two weeks after that.

Q. Were you acquainted with Wallie Sellers?

A. Yes.

Q. Who worked as a messenger boy on the copy desk?

A. Yes, I was acquainted with him.

Q. To your knowledge, had he ever previously done any classified soliciting?

A. To my knowledge he had never sold any classified advertising.

Q. This loan of \$300 that you said you had obtained, was that [309] a loan on your car?

A. I think it was, yes. [310]

United States
Circuit Court of Appeals

For the Ninth Circuit.

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

vs.

THE CITIZEN-NEWS COMPANY,
Respondent.

Transcript of Record

In Two Volumes

VOLUME II

Pages 339 to 630

Upon Petition for Enforcement of an Order of
the National Labor Relations Board

FILED

MAR 26 1942

PAUL P. O'BRIEN,
CLERK

United States
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Upon Petition for Enforcement of an Order of
the National Labor Relations Board

T. HARWOOD YOUNG,

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination [368]

Q. Mr. Young, did you ever tell Mr. Lugoff that he was going to be discharged?

A. You mean just as a bald separated statement?

Q. Did you ever complain to him, tell him there were complaints about his work and that he was going to be discharged or that he might be discharged?

A. At what time?

Q. Any time.

A. There was a conversation with Mr. Lugoff in 1939 in relationship to——

Q. When did that occur in 1939?

A. But it isn't in direct answer to your question.

Q. All right. Tell us about that particular one. When in 1939 did that occur?

A. Mr. Lugoff made a presentation and a request for a higher wage. Is this along the line you want?

Q. Go ahead.

A. And consideration was given and a higher wage scale was set up and I had a conversation with him at that time informing him of that fact.

Q. Now, give us the conversation. [375]

(Testimony of T. Harwood Young.)

A. I told him at that time that his production would have to warrant the increase.

Q. Where did this occur?

A. In my office.

Q. Who was present?

A. I couldn't say that there was anyone present.

Q. Well, the two of you were.

A. Except the two, yes.

Q. Was this before or after the raise?

A. This was after the raise.

Q. How long after the raise?

A. Well, practically immediately.

Q. What time of the year was this?

A. This was in the neighborhood of July 1, 1939 within the matter of a day or two one way of the other. I couldn't say exactly.

Q. Did you call in other people and tell them that?

A. No, I did not. Mr. Lugoff was the one who raised the question.

Q. Did you tell him at the time he raised the question that he would have to have greater production?

A. There was conversation to that effect, yes, that he would.

Q. Now, give us the whole conversation at the time he came in.

A. I told him in the original conversation and I repeated [376] to him later that I had a while

(Testimony of T. Harwood Young.)

back seen him on the street on Selma Avenue there near the office within a block, and on McCadden that I had seen him sound asleep in his car during working hours and that I thought that thing would not lead to production.

Q. What time of the day did you see him sound asleep?

A. Around two o'clock in the afternoon on each occasion.

Q. Go ahead. Give us the whole conversation.

A. In reply to the matter of the necessity of his production equaling the guarantee which was \$24.00, he agreed that if he did not meet the production that he couldn't expect to retain his job.

Q. Was anyone else present at that time?

A. I am not quite certain. In the original conversation Mr. Phil Allen was present when the matter was first brought up and I am not sure about the second conversation.

Q. Now, you told him positively if he couldn't make his guarantee he would be fired; is that right?

A. I told him he couldn't expect to retain his job and he agreed that that was a fair proposition.

Q. Why didn't you fire him when he didn't make his guarantee?

A. Firing doesn't happen very readily at our place.

Q. Do you have to take a year and a half to fire a man? A. Well, it did in that case.

(Testimony of T. Harwood Young.)

Q. It did. Why did you wait a year and a half before firing [377] him? A. What is that?

Q. Did you fire him on account of not making his guarantee? Is that why you fired the man?

A. That was why he was fired ultimately.

Q. For your information, Mr. Palmer has produced the record showing this man practically never made his guarantee. Did you know that?

Mr. Palmer: Here is one.

Q. (By Mr. Sokol) Did you know that?

A. I knew that his record had not been good right along.

Q. All right. When did you first discover that? Here, for instance, is Board's Exhibit 6-A. The guarantee went in July 1st.

Mr. Palmer: What year?

Q. (By Mr. Sokol) 1939. That would be 6-B. When did you discover that his production wasn't any good? A. It had been known.

Q. For years?

A. I knew of his record from '38, along from probably early '38 on. My first interest was attracted to his record largely by what I mentioned seeing him on the street.

Q. What particularly about his production didn't you like? A. It was low.

Q. It was low? [378] A. Yes.

Q. Who told you it was low?

A. I got the figures from Mr. Tobin.

(Testimony of T. Harwood Young.)

Q. When did you get the figures from Mr. Tobin?

A. Well, the first information on figures was probably early in '38. As I say that was the first time I was interested after——

Q. You remember that Mr. Tobin fired Lugoff in August 1938? A. Yes.

Q. You remember that you took him back and put him on probation? A. Yes.

Q. What did you say to him when you put him on probation? Did you give him the slip showing him that he would be on probation?

A. There was a slip, yes.

Q. Is that the only thing you did? You handed a slip, didn't you, telling him that he would be on probation until January 1?

A. That is right.

Q. When January 1, 1939 came along did you do anything about it?

A. There was some discussion about it.

Q. Did you make a check? You had some discussion with Mr. Palmer?

A. I think—no. [379]

Q. With whom did you have the discussion? Mr. Tobin? A. Yes.

Q. And you determined then to keep Mr. Lugoff on?

A. There wasn't any determination at that time.

Q. What was the discussion?

(Testimony of T. Harwood Young.)

A. Nothing was done at that time.

Q. Then why wasn't anything done?

A. Well, I can't answer that as to why.

Q. Now, you are positive that on January 1, 1939 when Mr. Lugoff's probationary period was up you discussed it with Mr. Tobin? You are positive of that? You just said so.

A. Along in that period.

Q. Around January 1, 1939. What did you say to Mr. Tobin and what did he say to you?

A. I can't recall that.

Q. Was it about low production by Mr. Lugoff?

A. Well, in the month of January there is always a re-check of everyone on the whole setup.

Q. So you naturally re-checked Lugoff?

A. There was no thorough check of Lugoff at that particular time as I recall now.

Q. You knew that he was on probation up to January 1, 1939?

A. I knew that he was on probation. The January 1st date was not exactly fixed in my mind. There had been an agreement not to disturb present jobs until January 1st, I believe there [380] had been an agreement to that effect.

Q. Who had the agreement?

A. I believe that was in our strike settlement agreement.

Q. What jobs were not to be disturbed?

A. No jobs?

Q. What?

(Testimony of T. Harwood Young.)

A. No jobs under the Guild contract.

Q. Lugoff was not under the Guild contract, was he?

A. No, but he was given equal consideration in that respect. I would put it that way.

Q. In years past do you know of any instance when Mr. Palmer himself discharged anyone other than these five people who participated in this strike?

A. Oh, there have been instances of discharge, yes.

Q. Can you name anyone that Mr. Palmer himself discharged outside of a city editor?

A. That is a rather hard thing to go back over 20 years to pick that up.

Q. Let me ask you what you might know: You had charge of hiring and firing in the classified column, did you?

A. No, Mr. Tobin did.

Q. Mr. Tobin did? A. Yes.

Q. But he consulted you, didn't he?

A. Yes, at times. [381]

Q. Who originally hired Mr. Lugoff, do you know?

A. Mr. Tobin.

Q. Did he consult you about it?

A. No, I believe not.

Q. In August 1938 when Mr. Tobin discharged Mr. Lugoff did he consult you?

A. I was familiar with that.

Q. You were? A. Yes.

(Testimony of T. Harwood Young.)

Q. Did you take the matter up with Mr. Palmer?

A. Yes, sir.

Q. And on the reinstatement, on the discharge?

A. I think the conclusion on that was primarily mine and Tobin's in that instance.

Q. It was? A. Yes.

Q. In other words, in general Mr. Palmer doesn't meddle in classified and display departments, the business office? You have charge, don't you?

A. Well, he doesn't meddle but I would say he knows what is going on.

Q. Did you discuss with Mr. Tobin the final discharge of Mr. Lugoff? A. Yes.

Q. When did you discuss it? [382]

A. Oh, some time previous.

Q. How long previous?

A. Possibly over a period of a couple of weeks. I asked for the production record on Lugoff.

Q. When did you ask for the production record?

A. Within a period of two weeks before the discharge.

Q. What was the occasion of that?

A. To see what the production figures were.

Q. Why?

A. So that I might know what the production figures were.

Q. Then you got the production figures a couple of weeks before he was discharged; is that right?

(Testimony of T. Harwood Young.)

A. Within a period of a couple of weeks.

Q. What did you do after you learned his production was down?

A. There was a discussion between Mr. Tobin and I and it was decided to try another person on that job.

Q. When did you try another person on that job?

A. As soon as Mr.—you are speaking of——

Q. Mr. Lugoff. A. This spring?

Q. Yes.

A. As soon as the decision was made then there was a discussion of who to put in. We selected one of our own boys that was there.

Q. When did you make that decision? [383]

A. Well, within a week or so prior to the dismissal, after we had discussed who might take the job and who might try out on it.

Q. Well, do you want to say that you discharged Mr. Lugoff for lack of production?

A. Speaking for myself, that was my position, yes, as to his status, yes.

Q. Did you so tell Mr. Lugoff at any time?

A. I had told him in the beginning and he had agreed that if he didn't make his guarantee of 24 then he shouldn't stay.

Q. Then as I understand it, you contend that his discharge was solely for lack of production, is that right? A. Nothing else.

Mr. Sokol: All right.

(Testimony of T. Harwood Young.)

Mr. Sargent: I didn't hear the answer.

The Witness: Nothing else.

Q. (By Mr. Sokol) By the way, you knew that there was considerable agitation going around the plant while the Guild was attempting to organize the plant, didn't you?

A. There was much more conversation than there was agitation, I would say.

Q. Conversation?

A. As nearly as I could tell.

Q. You knew some of the people who had joined the Guild? A. Some. [384]

Q. Who were the people you knew? I mean prior to the strike?

A. I never interested myself in knowing, as a matter of fact, who was a member. I knew Mr. Johnson was and two or three others.

Q. You knew Lugoff was?

A. I never knew that Lugoff was, no.

Q. You didn't? A. No.

Q. Did you attend the negotiating meetings?

A. You said prior to the strike.

Q. Oh, prior. I mean after the strike you knew that he was a member of the Guild, didn't you?

A. I assumed that he was by one factor, from one or two attendances at meetings that I was there, that is the first time that I knew. That is the only thing that I saw personally that would indicate that he was interested or a member.

(Testimony of T. Harwood Young.)

Q. Why did you assume that he was a member?

A. That he was interested or a member?

Q. Yes.

A. Because he attended the Guild negotiation meeting.

Q. Only members attended; is that right?

A. As a rule. I don't recall of outsiders attending.

Mr. Sokol: That is all.

Trial Examiner Whittemore: Do you have any questions?

Mr. Sargent: No, I don't. I won't ask any questions. [385]

Mr. Sokol: Well, I thought you were going to ask some questions and I would ask some other questions concerning the production records and so on.

Trial Examiner Whittemore: Well, do you expect to call him as one of your witnesses?

Mr. Sargent: Possibly.

Mr. Sokol: Will you produce those production records so I won't have to ask him about it?

Mr. Palmer: Which ones are you asking for?

Mr. Sokol: Lugoff production records.

Mr. Palmer: Aren't they here?

Mr. Sokol: I mean the records from your books. Well, we will get those.

Mr. Palmer: They are here before you.

Trial Examiner Whittemore: Well, if it is neces-

(Testimony of T. Harwood Young.)

sary to have this witness recalled, I am sure it will be all right.

Mr. Palmer: Yes.

Trial Examiner Whittemore: We will recess until tomorrow morning at 9:30.

(Whereupon at 5:00 o'clock p. m., November 15, 1940, the hearing in the above entitled matter was adjourned until 9:30 a. m., November 16, 1940.)

[386]

PATRICIA KILLORAN,

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Sokol) State your name, please.

[409]

A. Patricia Killoran.

Q. Do you work for the Citizen-News?

A. Yes.

Q. When did you go to work for the paper?

A. It was in September 19—it has been 12 years ago.

Q. 1928? A. 1928.

Q. In what capacity?

A. I went in selling advertising.

Mr. Sargent: Will you speak a little louder, please, Miss Killoran?

(Testimony of Patricia Killoran.)

The Witness: Yes. I went in selling advertising.

Q. (By Mr. Sokol) Since then what kind of work have you done?

A. I have been doing publicity, and have worked on general publicity for the Citizen-News.

Q. Well, at the time of the strike in 1938, what were you doing?

A. I was doing general publicity and fashions.

Mr. Sokol: Now, at this time, may we stipulate to the exact date of the strike, so that may be in the record? May 17th, wasn't it?

Mr. Palmer: The 13th, wasn't it?

The Witness: The 13th.

Mr. Sokol: It is stipulated by and between the parties that May 13th is the exact date of the strike. [410]

Trial Examiner Whittemore: Off the record a moment, please.

(Discussion off the record.)

Trial Examiner Whittemore: On the record.

Mr. Sokol: It is stipulated by and between the parties that the last negotiations were held between the Guild and the company on May 13th and that on May 17th the strike ensued, that is, May 17th, 1938.

Mr. Palmer: That was the last negotiations before the strike. There have been some since.

Mr. Sokol: Yes. Now, it is further stipulated between the parties that on May 13, 1938, there had been a meeting of the minds with respect to the

(Testimony of Patricia Killoran.)

contract; in other words, that the contract between the parties had been consummated, except for the signing of same, and that on that date the union was notified that three of its people in the editorial department were to be discharged, and that that precipitated the strike.

Is that correct?

Mr. Sargent: I wouldn't want to let that go quite that way. I am perfectly willing to either take the stand or make a statement as to exactly what took place.

Mr. Sokol: Well, you make your statement.

Mr. Sargent: For the purpose of the record, your Honor, what took place was that, in substance as Mr. Sokol has said, on the 13th of May we finally had reached the place, after a [411] number of negotiations, where we were in accord on the last item of the proposed agreement between the Guild and the newspaper.

At that time, on behalf of the management, before we left I stated that the management had informed me that there were three people which it felt compelled to let go because of economy re-trenchment reasons, and that I thereupon offered to tell the names of those three individuals to the negotiating committee of the Guild and the Guild observers.

The Guild committee said that it was not interested in knowing the names of the persons, and

(Testimony of Patricia Killoran.)

there was some talk then between the chairman of the Guild negotiating committee, as to whether the people would be given first preference in case there was an opportunity for re-hiring. The statement was made, on behalf of management, that there was nothing against any of these individuals, and there was no reason apparent why they wouldn't be, but that until the management had a chance to consider the whole situation, it did not want to bind itself irretrievably, although it saw no reason why they should not be re-employed first.

Thereupon, the Guild negotiator, Mr. Garrett, stated this was not a re-hiring contract, and the assumption was then made that we would sign the contract, and plans were made for getting the copies of the contract, which was being drawn by me, with the final one or two changes, which were small, into [412] Miss Daniel's hands prior to the meeting, but that was never accomplished.

Upon, I believe, the following Tuesday,—it was not known until Monday by me, at least, that there was any possibility of a strike. I only make this statement in order to clear up the situation, so that you wouldn't think that we thought on that day, when we left the negotiations, that there was to be a strike, because I did not know it.

Now, perhaps Miss Daniel has something to say about it.

Mr. Sokol: May we go off the record?

(Testimony of Patricia Killoran.)

Trial Examiner Whittemore: I think perhaps we better at this point.

(Discussion off the record.)

Trial Examiner Whittemore: We will be on the record again.

Mr. Sokol: Anyway, the record now shows that the strike took place March 17, 1938.

The Witness: May.

Mr. Sokol: I mean, May 17, 1938.

Q. (By Mr. Sokol) Now, prior to May 17, 1938, what kind of work were you doing, immediately prior to that date?

A. I had just finished a special edition on the opening of the Columbia Studios, but I did general publicity and fashions and home economics.

Q. Fashions. Were you the fashion editor?

[413]

A. I am fashion editor.

Q. Were you fashion editor then?

A. Yes.

Q. Now, you went out on strike? A. Yes.

Q. When you returned in August—first, you returned in August, 1938, is that right?

A. Yes.

Q. Do you recall that five people had been discharged prior to the strike? A. Yes.

Q. Now, of those five people Mell Scott was one? A. Yes.

Q. What had he been doing prior to the strike?

[414]

(Testimony of Patricia Killoran.)

Q. Were you returned to your original work?

A. I was returned inside, but I was told that I was to get stories on the telephone, rather than by personal calls, as I had done formerly.

Q. Well, then you did return to your fashion work?

A. I returned to my general writing on fashion work.

Q. Was that after grievances were presented by the Guild?

A. That was after this Guild committee had called on the [418] Judge and protested on the general grievances, including mine. [419]

Q. After the strike did Mr. Young ever say anything to you about unions? A. Yes.

Q. When? A. Well, one time——

Q. Do you recall the date?

A. It was in connection with a cocktail press party at I Magnin & Company. [423]

Q. What was the date, approximately?

A. It must have been early in November.

Q. What year?

A. 1938, I guess. Maybe it was 1939.

Q. Limiting yourself to the conversation about unions, give us that part of it.

A. Well, I—let me see—I know the whole conversation. I am trying to make it brief.

Q. Well, give us the whole conversation?

A. Well, I didn't go to a cocktail press party, because I had burned my hand and had it all

(Testimony of Patricia Killoran.)

wrapped up, and it was a very important press party, which I didn't know. I usually used my own judgment in going to these things, and I. Magnin was very disappointed that I wasn't there, and Mr. Young called me in his office and accused me of just deliberately failing to go to this party, just out of orneryness, and I said that I didn't and explained the circumstances.

And he said, or he inferred that he didn't believe me, and I said, "Are you calling me a liar?"

He said, "How could I believe anything after all the thinks that you have done?"

And I said, "Do you mean me?"

And he said, "All of you."

And I said, "Well, I know what you mean by that." I said, "You mean the Guild." [424]

He said, "Well, as a matter of fact, I can't talk about those things, because I am not allowed to."

"Well," I said, "I can talk about them."

And he said, for that matter that his brother had been a very active union man, that he knew more about unions than I would ever know, and he knew about good unions, like the Brotherhood, but that I was just not to be trusted, after the things that we had done.

Q. Do you know anything about a resolution being passed to aid the Citizen-News in regaining its contract with the Variety Magazine?

A. Yes.

Q. When did that occur?

(Testimony of Patricia Killoran.)

A. That occurred at the time that the Citizen-News lost the Variety contract.

Q. And what was the resolution?

A. The Guild wrote a resolution——

Mr. Sargent: Won't the resolution speak for itself?

Mr. Sokol: Do you have the resolution?

Mr. Palmer: I have all of our correspondence, but I don't know if it is in this file.

The Witness: I can tell you the essentials of the resolution.

Mr. Palmer: No, it isn't in here.

Q. (By Mr. Sokol) What was the substance of it? [425]

A. That the Guild offered its good services to try to act as a sort of a contact between the A. F. of L. and the Judge, in order to organize the 'Typographical Union, so that the Citizen-News wouldn't lose the Variety contract, which was taken out of the Citizen-News because the Citizen-News did not have a Typographical Union bug.

Q. When you say "Judge", you refer to Mr. Palmer? A. Yes.

Q. Did Mr. Palmer accept your resolution?

A. We asked him to allow us to post it on the bulletin board.

Q. Yes. What did he say?

A. And he refused.

Q. Anyway, the resolution was taken down from the bulletin board. Do you recall that?

(Testimony of Patricia Killoran.)

A. Yes, and——

Mr. Palmer: What kind of questioning is that. She has previously testified that she wasn't allowed to post it on the bulletin board.

Mr. Sokol: You may object, if you wish.

Mr. Palmer (Continuing): And you come along with a question, "the resolution was taken down." She hasn't testified yet that she put it up.

Trial Examiner Whittemore: Suppose you voice your objection.

Mr. Palmer: I object to that question as leading.

[426]

Trial Examiner Whittemore: I will sustain the objection.

The Witness: I didn't take it down. It was taken down. I circulated it in the composing room afterwards on the men's lunch hour, after getting permission from Harold Winn to circulate it.

Q. (By Mr. Sokol) Harold Winn. Who is he?

A. He was the composing room foreman, and I was rebuked for doing that.

Q. Who rebuked you?

A. My managing editor, Mr. Swisher. Mr. Swisher said I was trying to make trouble in the composing room, like I did downstairs, every time I had a chance.

Q. What trouble? A. Trouble.

Q. What kind of trouble, did he say?

A. Well, he said—apparently he meant union trouble. That is the only thing he ever accused me

(Testimony of Patricia Killoran.)

of talking about, that was trouble, that I was discussing the Guild.

Q. Did you ever call Mr. Palmer a vile name?

A. Not to my knowledge.

Q. Did you ever call him a S.B.? A. No.

Q. Or any similar term? A. No.

Q. Do you know if Mr. Crow ever called him that, or any similar [427] term?

A. He didn't to me.

Q. Did Mr. Schlichter ever curse the Judge?

A. No.

Q. Now, do you know Mr. Lugoff?

A. Yes.

Q. Do you know what his activities were after he joined the Guild? A. Yes.

Q. What did he do?

A. Sold classified advertising.

Q. No, I mean in the way of union activities?

A. Oh. Well, he was very active in the classified department. He was very enthusiastic about the Guild, and he passed around—"resolution," that is not the word, I can't think of the word—passed around petitions and kept urging people to join the Guild, talked very openly, in fact, at any time he had a chance, urging people to join the Newspaper Guild.

Q. Did he ever tell you that he thought he was going to be fired when the Labor Board decision came down adverse to the other five people?

(Testimony of Patricia Killoran.)

A. No.

Mr. Sargent: I object to that question as entirely leading.

Trial Examiner Whittemore: The objection is sustained. [428]

Mr. Sargent: In regard to the previous question, I ask that it be stricken unless the witness indicates that she has seen or heard Lugoff do these things herself.

The Witness: Yes, I did.

Mr. Sargent: All right, then. No objection.

Mr. Sokol: That is all.

Trial Examiner Whittemore: Have you any questions of the witness?

Mr. Palmer: Yes. May I have this marked as Respondent's Exhibit 4, for identification, please?

(Thereupon, the document referred to was marked as Respondent's Exhibit 4, for identification.)

Cross Examination

Q. (By Mr. Palmer) I show you, Miss Killoran, a letterhead, on which there is some typing, bearing the legend of the Los Angeles Newspaper Guild, which has been marked Respondent's Exhibit 4, for identification, and I ask you if you can identify that document?

(Handing document to witness.)

A. Yes.

Q. What is this?

(Testimony of Patricia Killoran.)

A. This is the resolution that I passed around the composing room.

Q. That you passed around the composing room?

A. And which we asked to have posted. [429]

Q. With Mr. Winn's permission? A. Yes.

Trial Examiner Whittemore: No objection?

Mr. Sokol: No objection.

Trial Examiner Whittemore: It is received.

(Thereupon, the document heretofore marked as Respondent's Exhibit No. 4 for identification, was received in evidence.)

RESPONDENT'S EXHIBIT 4

Los Angeles Newspaper Guild

Local No. 69, American Newspaper Guild

Affiliated with the Congress of Industrial
Organizations

212 West Third Street

Tom O'Connor, President

John F. Cohee, Secretary

Karl Schlichter, Treasurer

Eugene S. Bradford, Financial Sec.

RESOLUTION

Whereas: We, the members of the Citizen-News Unit of the Los Angeles Newspaper Guild, with other employes of the Citizen-News, deplore the recent withdrawal of Variety from the plant;

Whereas: As good union members we firmly believe that all our fellow employes will benefit by

(Testimony of Patricia Killoran.)

membership, of their own free will and accord, in the established union of their trade—a condition which we sincerely believe will redound to the benefit of all concerned, publisher and worker alike;

Whereas: We are informed that certain members of the Citizen-News composing room and other mechanical departments are studying the problem of affiliation in the recognized unions of their crafts;

Whereas: We understand that such affiliation will be looked upon with favor by the management;

Therefore Be It Resolved: That we, the members of the Citizen-News Unit of the Los Angeles Newspaper Guild, do hereby offer our good offices to our employer and to our fellow-employees in the composing room and in other mechanical departments in the effecting of any desire they may have to become affiliated with the International Typographical Union; and

Be It Further Resolved: That copies of this resolution be sent to the composing room and other mechanical departments, to Judge Palmer and to the executive board of the Los Angeles Newspaper Guild and that it be posted.

Q. (By Mr. Palmer) That notice was, as a matter of fact, posted, wasn't it, Miss Killoran, in the composing room?

A. I think it was posted for a minute and then taken down.

(Testimony of Patricia Killoran.)

Q. Did you speak to anybody about its being taken down?

A. At that time I was not unit chairman, Judge Palmer. It was Karl Schlichter who spoke,—who did that.

Q. You went to Mr. Winn first about it and Mr. Winn is the superintendent of the composing room?

A. No, it wasn't I. It was Karl, who went to you and told me——

Q. Then you just have this from Mr. Schlichter, about anything that took place, outside of your own activities?

A. I did not post the notice.

Q. Did you see Mr. Schlichter post the notice?

Mr. Sokol: There is no testimony—pardon me. I withdraw my objection.

The Witness: No, I didn't.

Q. (By Mr. Palmer) Do you know whether or not the notice [430] was posted?

A. Yes, it was. I am convinced that it was.

Q. What convinces you that the notice was posted?

A. Because I understood that it was taken—that someone took it off of the bulletin board and took it in to Tommy Thompson almost before Karl got back to the editorial department, after speaking to Mr. Thompson about it.

Q. And in the meantime, you went on with your work of handing out copies of the circular to members of the composing room?

(Testimony of Patricia Killoran.)

A. No. I did that on the lunch hour—on their lunch hour.

Q. Well, perhaps I am wrong. Did I understand you to say that Mr. Winn gave you permission to circulate the resolution?

A. Yes, after we weren't allowed to post it, Judge Palmer.

Q. Oh, yes.

A. I went and I said something to Harold about it.

Mr. Sokol: Harold who?

The Witness: Harold Winn.

Q. (By Mr. Palmer) Harold Winn.

A. And I asked him if there was some way I could get it to the people, as long as we weren't allowed to post it.

He said, "Why don't you come in on their lunch hour and pass it out among them?"

So I did that, and after that I was called in by Mr. Swisher and I was told to stay out of the composing room, that [431] I was only making trouble in there, like I had downstairs.

Q. But you did have Mr. Winn's permission?

A. He said he didn't want to be put in the middle.

Q. Did Mr. Winn discuss with you the reasons why he didn't want the notice posted?

A. I think he did—no, I think—I am trying to think exactly what the conversation was.

(Testimony of Patricia Killoran.)

I didn't feel from the conversation—as I remember, I didn't feel it was he that was objecting, but that he was afraid to be involved in an argument and thought it was better for me to come in during the lunch hour and pass it around.

Q. Well, he told you he had been asked to remove the notice from the bulletin board?

A. No, I don't recall him saying that.

Q. Did you ask him—— A. No.

Q. —about its removal?

A. I don't recall. All I know is that it wasn't there, and we wanted everybody to see it.

Q. Well, you did tell him that it had been posted and been removed, did you?

A. I don't think I had to tell him. I think he knew it. I mean, he knew it because it wasn't there. He knew about it.

Q. And you knew it had been on there before your conversation with Mr. Winn? [432]

A. Yes.

Q. And you asked Mr. Winn if there was some other way of getting the notice to the attention of the members of the composing room?

A. I asked him if I could pass it around right then, and he said to wait until the lunch hour.

Q. Now, did Mr. Winn discuss with you any of the provisions of the notice?

A. Briefly, I think he probably did, that he thought that it represented a friendly gesture on

(Testimony of Patricia Killoran.)

the part of the Guild, that he was sure we didn't intend to do any harm by it.

Q. He told you that,—that he was sure you intended no harm? A. Yes.

Q. Now, calling your attention to a clause reading:

“Whereas, We understand that such affiliation will be looked upon with favor by the management.”

Did Mr. Winn discuss that particular clause with you?

A. That wasn't in that resolution at the time it was posted, because you asked to have it taken out, I believe.

Q. Well, it was in the resolution at the time it was circulated, wasn't it, Miss Killoran?

A. I don't think it was. Frankly, I recall that you asked that to be taken out. Maybe——

Q. Did I ask you to take the “Whereas” clause out?

A. I didn't talk to you at all. It was Karl who talked to you. [433]

Q. Then what you understand is merely what Mr. Schlichter told you? A. Yes.

Q. We will disregard that. I will ask you to look at Respondent's Exhibit 4 again, then, and state, for the benefit of the Court here, whether or not that is a copy of the document which you circulated and handed to each of the employees, or

(Testimony of Patricia Killoran.)

whether that document was amended before you circulated it?

A. I think it was amended before we circulated it. It was written—it wasn't written on Los Angeles Newspaper Guild paper, I don't think. I think it was written on a piece of copy paper.

Mr. Palmer: Will you mark this, please.

Trial Examiner Whittemore: Is that to be marked "A"? Is that the other copy?

The Witness: Yes, sir.

Mr. Palmer: Yes, Respondent's Exhibit 4-A, for identification.

(Thereupon, the document referred to was marked as Respondent's Exhibit 4-A, for identification.)

Q. (By Mr. Palmer) I show you Respondent's Exhibit 4-A, for identification, and ask you to look at that document and see if you recognize it.

(Handing document to witness.)

A. That isn't the original that I passed around, because we [434] didn't have it—this is mimeographed. I mean, the original was typed.

Q. How many copies did you pass around, Miss Killoran?

A. I only had one.

Q. You just showed the copy around?

A. Yes.

Q. You didn't hand one to each of the employees?

A. No.

(Testimony of Patricia Killoran.)

Q. And this copy marked Respondent's Exhibit 4-A, you never saw?

A. I didn't pass it around.

Q. Or one like it?

A. I don't know. I don't recall seeing it.

Q. You wish to say now that in the one you did circulate the clause did not appear: "Whereas: We understand that such affiliation will be looked upon with favor by the management,"—that that clause was not in the one that you did circulate?

A. In the original one that we wrote, it was in, because we did understand that the affiliation would be looked upon with favor by the management, because Mr. Swisher had discussed it with Jim Crow, and had given him that impression. After showing the resolution to you, you asked us to take that out, and we did, before passing it around.

Q. All right. Now, you say the resolution was shown to you? A. Well, it was—— [435]

Q. By whom?

A. Karl Schlichter, who gave it to Tommy Thompson, who took it to you.

Q. Were you present with Karl, when he did that?

A. No, but I was sitting where I could see him.

Q. You saw Karl take the copy to Mr. Thompson? A. Yes.

Q. From where you sat in the editorial room?

A. Yes. I think I typed it.

Q. You typed it? A. Yes.

(Testimony of Patricia Killoran.)

Q. Do you know how this document came into existence, then, Respondent's Exhibit 4?

A. No, I don't.

Q. To your knowledge, you have never seen it?

A. I have seen the copy. I mean, I have seen the copy that there was on it.

Q. The copy of that document? A. No.

Trial Examiner Whittemore: You mean the text?

The Witness: The text.

Q. (By Mr. Palmer) To your knowledge, you never saw a document appearing like Respondent's Exhibit 4-A, for identification? A. No.

Mr. Palmer: Do you wish to show her any other documents? [436]

Mr. Sokol: I don't have any other one.

Mr. Palmer: The reason I am doing this,—I am not trying to confuse the witness, but I don't think any other document was circulated than this particular one.

The Witness: Yes, there was.

Mr. Palmer: Well, all right.

The Witness: I didn't even have any Guild paper, and I couldn't type that well.

Mr. Palmer: Perhaps someone could find the other document then. I don't know.

The Witness: I circulated it myself.

Trial Examiner Whittemore: Well, do you mind if I ask a question on that?

Mr. Palmer: Not at all, your Honor.

(Testimony of Patricia Killoran.)

Q. (By Trial Examiner Whittemore) Do you know what happened to the document that you yourself circulated, that was on the copy paper?

A. No, I don't.

Q. Did you keep it?

A. It might be in my effects some place.

Miss Daniel: Is it not possible that you made a copy on copy paper from an original, and with the change that the Judge wanted, and took that copy and showed it around, because you knew that any original should be in Guild files, or for the person for whom it was destined, in the hands of the person [437] for whom it was destined, and that that is probably what happened?

The Witness: I frankly don't recall those things. I do recall passing it around, and I do recall this argument about the management objecting to that clause in it.

Q. (By Mr. Palmer) Well, did you have any argument with anybody about the clause?

A. No.

Q. What?

A. No. I was just asked to take it out, after Karl had talked to you.

Q. Did you hear anybody discuss the clause?

A. No, not that I recall.

Q. Well, then why did you say you knew about the argument?

A. Because after Karl had talked, he came back and asked me to re-type it, and I don't think he

(Testimony of Patricia Killoran.)

would have asked me to re-type it if there hadn't been any objection to it because, obviously, that would be to our advantage, to leave such a clause in, and he certainly would not have asked me to take it out unless the management asked him to take it out.

Q. That is the way you figured it out, not because of any direct knowledge or contact with the management?

A. It seems to me to be very logical.

Q. I see. Did Karl tell you any reason that the management gave him as to why they wanted it taken out? [438]

A. Yes.

Q. What did he tell you?

A. He said that you wanted it taken out because that would look as though the management was on the side of the union, and that the Labor Board would not allow them to be on the side of the union.

Q. On the side of any particular union?

A. Of any union.

Q. Of any union. Do you know whether or not Mr. Schlichter, after posting the original notice, posted another notice on the bulletin board?

A. In the composing room?

Q. Yes. A. No, I don't think he did.

Q. You never saw one? A. No.

Q. Do you know Mr. Schlichter's handwriting?

A. Yes.

(Testimony of Patricia Killoran.)

Mr. Palmer: Will you mark this Respondent's Exhibit 5, for identification?

(Thereupon, the document referred to was marked as Respondent's Exhibit 5, for identification.)

Q. (By Mr. Palmer) I show you a document marked Respondent's Exhibit 5, for identification, purporting to bear the signature of K. Schlichter, and ask you if you can identify that signature?

[439]

(Handing document to witness.)

Mr. Sokol: We will stipulate that is his signature.

The Witness: Oh, I can identify it. I was just reading it over.

Mr. Sokol: No objection to its going into evidence.

Mr. Palmer: All right.

The Witness: Yes, I can.

Mr. Palmer: I offer this as Respondent's Exhibit 5.

The Witness: That is to take the place of that phrase in there.

Mr. Sargent: What is this, anyway?

Mr. Palmer: Oh, excuse me, Mr. Sargent. I will show it to you.

Trial Examiner Whittemore: It may be received.

(Thereupon, the document heretofore marked as Respondent's Exhibit 5, for identification, was received in evidence.)

(Testimony of Patricia Killoran.)

RESPONDENT'S EXHIBIT 5

COMMUNICATION FROM CITIZEN-NEWS
UNIT OF THE LOS ANGELES NEWSPA-
PER GUILD.

To the Composing Room, Judge Palmer, and all
concerned

Re: Resolution

It is to be clearly understood that all expressions concerning the position of the management are solely the opinion of the Guild Unit, and are in no way designed to appear as the inspiration, implication, inference, or expression of the management.

CITIZEN-NEWS UNIT,
Los Angeles Newspaper Guild,

By: K. SCHLICHTER
Unit Chairman.

Q. (By Mr. Palmer) At the time you discussed the pictures which Mr. Young had in his office following the strike, your discussion was directed particularly to one picture of yourself, wasn't it, Miss Killoran?

A. They were all up there and, naturally, I had a particular interest in that one, because it was a terrible picture.

Q. That was your only objection to it, was it, because it was a terrible picture?

(Testimony of Patricia Killoran.)

A. No, I objected on general principles, and specifically. [440]

Q. Do you recall the picture?

A. Yes. It was a picture of me on the picket line in front of some store or property and I was carrying a sign and had a black dress with white on.

Q. Were you wearing a placard?

A. I was either wearing a placard or carrying a sign. I think I usually was.

Q. Do you recall the wording on the placard or the sign? A. No, I don't.

Q. What is that? A. No, I don't.

Q. Are you sure you didn't discuss with Mr. Young the wording on it?

A. If I saw it, I might remember some discussion.

Q. Wasn't the placard or the sign one that bore the words "Judge Palmer law violator"?

A. It might have.

Q. Well, do you recall anything, now that I refreshed your memory?

A. I wore so many statements, but I don't recall. But I think we probably had a sign with that on.

Q. And you might have carried one?

A. Yes.

Q. And that the picture that he showed you carried one to that effect? [441] A. Yes.

Q. Now, during the strike did you not devote a great deal of time to calling upon advertisers in

(Testimony of Patricia Killoran.)

an effort to persuade them to discontinue their advertising?

A. I was chairman of the boycott committee or advertising pressure committee, I guess it was called.

Q. And you did call upon many advertisers?

Mr. Sokol: Just a minute. I object to that.

Mr. Palmer: My reason for going into that, your Honor, is because of counsel's going into the instructions received from Mr. Young, that she was to stay away from existing advertisers following the strike.

Trial Examiner Whittemore: The objection is overruled. Go ahead.

Mr. Palmer: Will you read the question, please?

(The question was read.)

The Witness: Yes, I did.

Q. (By Mr. Palmer) To ask them to discontinue their advertising?

A. To help us settle the strike.

Q. You asked them to discontinue their advertising, did you not?

A. Asked them to discontinue the advertising to end the strike.

Q. During the strike? [442]

A. To help end the strike.

Q. But during the strike, didn't you ask them to discontinue their advertising permanently, Miss Killoran? A. No.

(Testimony of Patricia Killoran.)

Q. Just while the strike was pending?

A. Yes. I explained to them that, after all, if all the advertising was out of the paper just one day the strike would be ended.

Q. And some of them you called upon frequently, didn't you, Miss Killoran? A. Yes.

Q. And some of them you threatened?

A. No, I never threatened them.

Q. With large picket lines, did you not?

A. We didn't threaten them with large picket lines. We had large picket lines.

Q. But didn't you mention picket lines to any one of the advertisers?

A. We explained to them that the Guild used picket lines and was entitled to do secondary picketing.

Q. Yes.

A. And, after all, that was our weapon, just the same as editorials were your weapon.

Q. You told that to the advertisers?

A. Yes. [443]

Q. And in the course of your activities, publications were issued at regular intervals known as the "Hollywood Citizen-News Striker", were there not?

A. Yes.

Q. And at one time you wrote an article about the Broadway Department Store, did you not?

A. I did not.

Q. I call your attention to an article in the June 30th issue of the Hollywood Citizen-News Striker—

(Testimony of Patricia Killoran.)

Mr. Sokol: Is that about advertising?

Mr. Palmer: Yes.

Q. (By Mr. Palmer) (Continuing) —bearing the headline, “Toil of Shop Girls Paid for her Wedding.” A. Yes.

Q. Does that refer to the Broadway Hollywood?

A. I didn’t write it, so I don’t know.

Q. Did you read the publication?

A. Yes, I read the publication.

Q. Will you re-read it, please, so as to refresh your memory?

Mr. Sokol: I don’t think there is any materiality there.

Mr. Palmer: I asked her whether it was about the Broadway——

Mr. Sokol: I will stipulate it refers to the Broadway.

The Witness: It does. That is what it says, yes.

Q. (By Mr. Palmer) And it contains a three column picture with the heading “Toil of Shop Girls Paid for her Wedding.” [444] Does that also refer to the Broadway store?

A. I will have to see. (Examining document) Yes, it does.

Q. You had nothing to do with it?

A. Nothing whatsoever.

Q. Do you know who wrote it?

A. No, I don’t.

Q. You were, prior to the strike, calling on the Broadway?

(Testimony of Patricia Killoran.)

A. Yes, but I didn't edit the Hollywood Citizen-News Striker.

Q. And during the strike you made calls on the Hollywood Broadway in an endeavor to get them to stop their advertising?

A. I talked to Mr. Shurtz. He stopped me on the street right after the strike started, and I talked to him about it on the street for about a half an hour. I never called on him. [445]

Q. Miss Killoran, you are at the present time chairman of the Citizen-News Unit of the Los Angeles Newspaper Guild? A. Yes.

Q. How long have you been such chairman?

A. Oh, I think since Karl left the Citizen-News—since Karl Schlichter was fired.

Q. That would be since March 30, 1940, on or about that date? A. It has been.

Q. During that time you felt perfectly free to carry on your union activities in the Citizen-News, have you not?

A. When I have had any free time.

Q. What?

A. When I have had any free time. I haven't had very much time to carry on union activities.

Q. But when you have free time, you feel perfectly free to carry on your union activities?

A. I do. I mean, if I have any free time, I would do it, but I don't feel exactly free about it, I will admit.

(Testimony of Patricia Killoran.)

Q. Well, you have since March 30th carried on a good many [453] union activities?

A. Just the usual things like they would in the Independent Printers Union, or anything else; like, there are certain things that have to be done, like telling people or posting notices, or things like that, although I have not tried to use the company's time.

Q. No, I am not accusing you of using the company's time, and I did not intend to.

A. No, I was just explaining.

Q. You have circulated the employees at various times with literature supporting the Guild, have you not?

A. Not downstairs, because we were refused the right to circulate union literature downstairs. We had to mail that out.

Q. Well, you mailed it to employees?

A. But we weren't allowed to circulate it, because you told us we couldn't.

Q. You weren't allowed to post notices outside of the bulletin board set aside for the Guild in the editorial room?

A. No, to distribute literature.

Q. In the editorial rooms you could post any notice you wanted to about the Guild?

A. On our own bulletin board, yes, because that is in the contract.

Q. And you have done that regularly?

A. Yes. [454]

(Testimony of Patricia Killoran.)

Q. And then by mail you have circularized the employees of the Citizen-News? A. Yes.

Q. In an effort to—— A. Organize them.

Q. —organize and develop support for the Citizen-News Unit? A. Yes.

Q. How many mailings have you put out, Miss Killoran?

A. Oh, quite a few. I would say about 12 or 14, something like that. I don't exactly know. I am including all mailings; I tried to include all mailings.

Q. Did that start about May 10th?

A. I can tell you which the first one was. It is a man with a tree.

Q. A man with a tree?

A. The man who walks alone, or something like that.

Mr. Palmer: Well, I haven't got it. Will you mark these, please, for identification?

(Thereupon, the documents referred to were marked as Respondent's Exhibits 6-A, 6-B, and 6-C, for identification.)

Q. (By Mr. Palmer) I show you documents marked Respondent's Exhibit 6-A, 6-B and 6-C, and ask you if those are three of the documents which you did circulate among the Citizen-News employees?

A. I mailed them. I did not circulate them among them. [455]

(Testimony of Patricia Killoran.)

Q. Mailed to them? A. Yes.

Q. And did anyone give you permission to use "Citizen-News" in your heading?

A. No. It is "The Citizen-News Guildsman".

Q. The Citizen-News Guildsman? A. Yes.

Q. Was any objection made to your use of "Citizen-News"?

A. I don't think there could be.

Q. Well, there was no objection?

A. No, I don't think there would be any point in making any objection to it.

Mr. Sokol: Just answer the question.

Q. (By Mr. Palmer) Your testimony is that there was no objection raised to it?

A. No.

Q. Was any objection ever made to your sending out and mailing the circulars?

Mr. Sokol: There hasn't been a foundation laid for that question. In other words, there was no foundation laid that it was mailed on company property or company stationery.

Mr. Palmer: No, but in her direct testimony she endeavored to imply that she was criticized for carrying on union activities.

The Witness: I was [456]

Mr. Palmer: I want to show that—you were?

The Witness: Yes.

Q. (By Mr. Palmer) By whom?

A. By Mr. Swisher and by Mr. Young.

Q. By Mr. Swisher and by Mr. Young?

(Testimony of Patricia Killoran.)

A. And by Mr. Sternberg.

Q. And by whom?

A. By Mr. Sternberg.

Q. By Mr. Sternberg? A. Herb, yes.

Q. Herb Sternberg, Mr. Swisher and Mr. Young. When did you have any conversation with Mr. Swisher in which he criticized you for union activity?

A. After I had circulated this resolution in the composing room.

Q. And where was that held?

A. It was held out in the editorial office, at about four o'clock in the afternoon.

Q. At his desk or near his desk or at your desk?

A. Part of it was near my desk and part of it was in his office. I think he first called me in his office, and later on we continued it out in the middle of the office.

Q. Let's take his office first. Was anybody present with you and Mr. Swisher at that time?

A. No, not in his office. [457]

Q. What did he say?

A. He said that a complaint had come to him that I was passing a resolution out around in the composing room, and that he wanted me to keep out of the composing room, because I was causing trouble out there, just the same as I was causing it downstairs, every time I had a chance.

Q. Did Mr. Swisher make any reference at that

(Testimony of Patricia Killoran.)

time to the contents of the resolution at all—make any reference whatsoever to the contents of this resolution which you were circulating?

A. I imagine that something was discussed about the resolution.

Q. Well, can you recall any reference whatsoever?

A. I can't recall the exact conversation.

Q. Did he refer to the clause in the resolution that stated that you understood that the management favored the composing room joining the Typographical Union?

A. No, he did not refer to that.

Q. Mr. Swisher did not refer to that?

A. No.

Q. When after that time did you have any other conversation?

A. The same day. He said—I put a posting item, put up a posting on the big strike, that the Guild was the victor in the Labor Board—in the strike, I mean.

Q. A posting on the bulletin board? [458]

A. Yes. And he said that anybody that would put up a false statement like that couldn't be trusted to do anything.

Q. Who told you that? A. Mr. Swisher.

Q. When was this?

A. This was—well, it was at the time of the settlement of the Chicago strike.

(Testimony of Patricia Killoran.)

Q. And what was this notice that you posted?

A. It said that Chicago—or, that the Guild was the victor in the Chicago strike, which I believed, and which I still believe.

Q. And Mr. Swisher told you he believed the Guild was not the victor?

A. No. He said that anybody that put up a notice like that, as unit chairman, that you could not believe anything they said.

Q. I see.

A. And he also said, as a matter of fact, that the Guild was not a reputable organization.

Q. Didn't he tell you that the Guild, as a matter of fact, had lost the Chicago strike?

A. Yes, he said it had lost it.

Q. He said that?

A. But I don't think so.

Q. No, but he told you that. Now, in reference to Mr. Young, when did Mr. Young ever speak to you? [459]

A. Well, I recounted all that conversation.

Mr. Sokol: You are on cross examination now.

The Witness: Oh.

Q. (By Mr. Palmer) Was that the time he spoke about his brother being a good union man?

A. The first time he talked to me, right after the strike, when he said that things could never be the same as they had been, and when he told me not to go to the stores, and when I pointed to the pictures and he said, "After what you have done, how could you expect me to trust you," and when all that happened.

(Testimony of Patricia Killoran.)

Q. Did he not at that time tell you that your activities with the merchants had offended many of the merchants? That your activities during the strike had offended many of the merchants?

A. He said I was not to go into Innes and Barker Bros. because the management did not want me to go in there, but subsequently they called me back themselves at Barker Bros.

Q. Who called you back? A. Mr. Watkins.

Q. Who called you back at Innes?

A. I went in there with my sister one day, and Mr. Laughlin——

Q. What was that?

A. I went in to Innes, because I didn't see any reason why I should not go in there, and I met Mr. Laughlin, and I told [460] Mr. Laughlin—well, he was the manager, and when he saw me, he said "Where have you been?"

And I said, "Mr. Young told me you didn't want me to come in here."

And he said that was not true——

Q. Mr. Laughlin said he had not?

A. He said, "You come in any time you want to, Pat."

Q. Now, what else did Mr. Young say to you?

A. Well, he told me that I was to sell advertising out in Beverly Hills.

Q. Yes, but about union activities, Miss Killoran. A. Well, later on, you mean?

(Testimony of Patricia Killoran.)

Q. At any time, yes.

A. Well, at the time of this argument we had about I. Magnin & Company——

Q. About what?

A. I Magnin & Company.

Q. Now, let's explain that. I got what you meant, but I don't think it got into the record. I. Magnin & Company invited representatives of the press to a cocktail party, is that it?

A. Yes, to a press cocktail party, at which they were to entertain——

Q. At which they were what?

A. They were entertaining the Crown *Prince* of Sweden, is what [461] they were doing.

Q. Showing him some new department?

A. No, just introducing him, I think.

Q. Introducing him?

A. The Crown Prince of Sweden.

Q. To the representatives of the press?

A. Yes.

Q. And it was held at the I. Magnin Stores?

A. Yes.

Q. And you were invited?

A. Yes, I was invited.

Q. And because of some injury you didn't attend?

A. I attempted to get somebody to attend. Helen Ewing, it was, and she had to go home because she had sinus trouble, so nobody was represented.

(Testimony of Patricia Killoran.)

Q. Did you tell Mr. Young you were unable to attend? A. You mean, at the time?

Q. Yes.

A. Oh, no, because the press cocktail parties—I got an invitation to them almost every day, to some place, and I more or less used my own discretion; and if there is some publicity to be published, that is usually sent to me, and at this particular time I didn't get any publicity, and, apparently, some of the downtown papers hadn't got theirs either, so there had been no new publicity in connection with it. [462]

Q. Now, you knew that Mr. Young always considered the I. Magnin account a very desirable account to have in the Citizen-News, did you not?

A. Oh, certainly.

Q. I see.

A. But I dealt with all of the accounts on a basis of using my own discretion, and I tried to get someone else to go.

Q. You didn't tell him that you were unable to attend? A. At that particular time?

Q. So he could send someone in your place?

A. No. As a matter of fact, afterwards I went out to see the Crown Prince out at his home in Beverly Hills, and I wrote a story about it, and Miss Slesinger at I. Magnin said it was the best story written about him. I did that to try to redeem myself. And that was the thing I told Mr.

(Testimony of Patricia Killoran.)

Young I would try to do, after he said he couldn't believe me after all the things we had done.

Mr. Sokel: We still haven't got to that union activity talk, have we?

The Witness: It was during this conversation, that he said that to me, and he said that and I said, "Who do you mean, me?" And he said, "All of you."

Mr. Sokol: Oh, I see.

Q. (By Mr. Palmer) "All of you"—you mean that he said he couldn't trust? [463]

A. Yes.

Q. And he said "All of you"?

A. And I said I knew what he meant by "all of us", and he said that was something that he wasn't allowed to discuss, but he had a brother who was a union man.

Q. And that was the time that you told him you could discuss it, even though he could not?

A. Yes.

Mr. Palmer: Will you mark this, please.

(Thereupon, the document referred to was marked as Respondent's Exhibit 7, for identification.)

Q. (By Mr. Palmer) I call your attention to Respondent's Exhibit 7, for identification, purporting to be an issue of the Citizen-News Guildsman, dated August 12, 1940, and ask you if you can identify that? A. Yes.

(Testimony of Patricia Killoran.)

Q. What is it, Miss Killoran?

A. I didn't get your question.

Q. What is the document before you?

A. The "Citizen-News Guildsman."

Q. Put out by you, or edited by you?

A. Edited by me, yes. This was sent out, and this was supposed to be circulated to prospective Guildsmen, and in that we didn't put anything that would discourage Guild—discourage them from joining the Guild. [464]

Q. This was mailed to prospective Guildsmen?

A. To people whom we hoped to interest, yes.

Q. And the article "C-N Renews Guild Contract" was written by you?

A. Yes, because we wanted to get them into the Guild too.

Mr. Palmer: I ask that that be admitted in evidence as Respondent's Exhibit 7.

Mr. Sokol: I object to that.

Trial Examiner Whittemore: You what?

Mr. Sokol: I object to its reception in evidence. I don't see the purpose of it.

Mr. Palmer: It is one more issue of the "Guildsman" in addition to the three there.

Mr. Sokol: Were the other three received?

Mr. Palmer: Yes.

Mr. Sokol: No, I don't think so.

Trial Examiner Whittemore: They haven't been offered.

Mr. Sokol: I am objecting to all of them.

(Testimony of Patricia Killoran.)

Mr. Palmer: All right. I will offer Respondent's Exhibit 6-A, 6-B and 6-C in evidence.

Mr. Sokol: I object to them.

Mr. Palmer: And at the same time Respondent's Exhibit 7 as an exhibit, all of which are offered for the purpose of indicating the union activity carried on by Miss Killoran, to offset implications that her union activities were inter- [465] fered with.

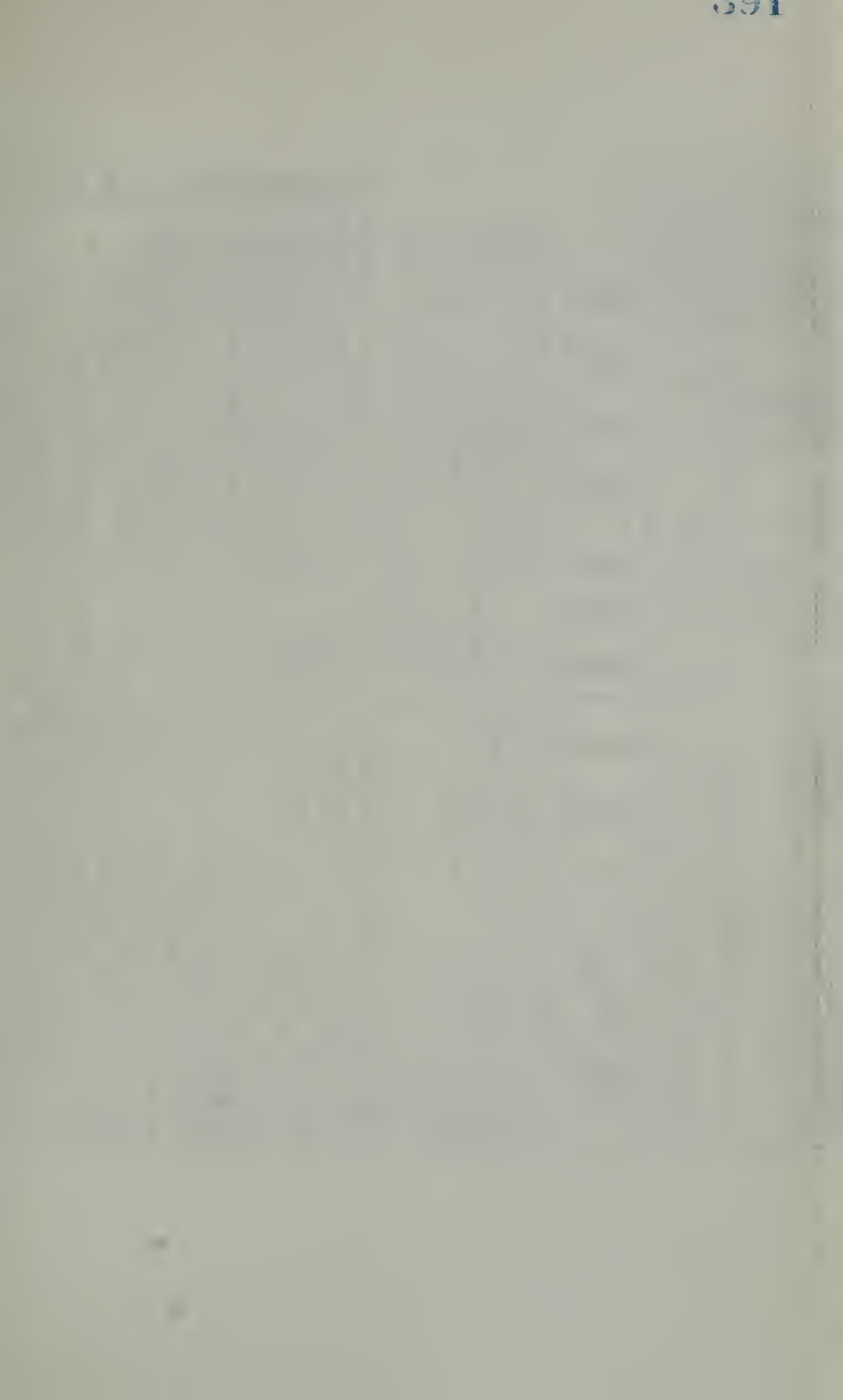
In addition, Respondent's Exhibit 7 is offered to show her statements, as chairman of the Citizen-News Unit, in reference to the last contract executed between the Guild and the Citizen-News——

Mr. Sokol: I object to that.

Mr. Palmer: ——which are all very pertinent, if you are after background.

Trial Examiner Whittemore: The objection is overruled. They are received.

(Thereupon, the documents heretofore marked as Respondent's Exhibits 6-A, 6-B, 6-C and 7, for identification, were received in evidence.)





When a fellow needs a guild

AN EDITORIAL

In a Credit Union bulletin a year or so ago, office workers were cited as making less money than any other class of workers in America -- an average for the industry of somewhere around \$18 or \$20 a week.

Why has this been true? Surely it seems rather ironical that the men and women whose job it is to total up employers' profits; to meticulously keep tab of dimes and dollars so that there will be no leak in those profits should be so much more poorly paid than the factory worker, the painter, the writer, the salesman who too make the wheels of industry turn round.

There is one answer to it. The white-collar office worker has been among the last to organize. With the organized worker on the one hand and the organized employer on the other, each working coolly for their share of the profits, the individualist white-collar worker has had to content himself with the crumbs.

As this was true in other industries

has it been true in the newspaper business. First came the composing room workers for whom the Typographical Union, the Pressmen, the Engravers, the Stereotypers, in years of united effort set up a fair wage scale, a scale in which even non-union mechanical workers profit in unorganized plants today.

Then along came the American Newspaper Guild, first into the editorial departments and soon on an industrial basis into other departments so that all newspaper workers should be assured through contract of shorter hours, better wages, increased job security through severance pay.

And has it paid? Let's examine the Herald-Express Guild contract clause covering commercial department employees, and look at the answer in black and white:

Beckkeepers -- General Ledger

Less than 1 yr. experience.....\$35.00
More than 5 yrs. experience..... 50.00
(Cont'd. on p. 2)

Respondents Exhibit 6-A

ELSA MAXWELL --- ASK US ANOTHER PAGING "MISS MOTION PICTURE"

Hey, you gals! Anyone is eligible to compete in the "Miss Motion Picture" contest with a two-week studio contract for the winner. Also get in on the \$100 cash prize Jitterbug Contest (competing against Elsa Maxwell herself).

Just a few of the scores of thrills and surprises set for the gigantic party Elsa Maxwell, famous party-thrasher, is staging for the Los Angeles Newspaper Guild.

The date: June 22.

The place: Vogue Ballroom, 9th and Grand Avenue.

Admission: \$1.28 and well worth twice the price.

PUBLISHERS BACK TYPOS' CLAIMS

A recent (confidential) bulletin of the American Publishers Association quotes with approval the decision of William Ray, chairman of an arbitration board in Salt Lake City, in a case involving the Typographical Union there. Ray said:

"The publishing of the newspaper is in no sense a joint venture; the printers have denied any responsibility as to the mistakes of management of the papers and have insisted that they are entitled to their compensation, irrespective of whether or not the newspaper is a profitable or failing venture.

"This is a necessary and logical attitude; if it were not so the compensation of the printers on each paper (in a city) would vary from month to month and from year to year; and as between two papers would be at constant variance."

AN EDITORIAL

(Continued from page 1)

Bookkeepers -- Senior Grade

Less than 1 yr. experience.....\$7.50
More than 5 yrs. experience..... 45.00

Bookkeepers -- Intermediate Grade

Less than 1 yr. experience..... 25.00
More than 5 yrs. experience..... 40.00

Bookkeepers -- Junior Grade

(Payroll Clerk, Checkers, and Billers)

Less than 1 yr. experience..... 20.00
More than 5 yrs. experience..... 35.00

Comparative wages are also set forth for employees with two, three and four years' experience. Complete information upon request.

And of course dismissal indemnity (severance pay) insured under contract amounting to one week's pay for each six months of employment or major fraction thereof up to 28 weeks' pay.

You, the men and women whose skill at figures help you hold down that job you have today; that job whose wages, even with your skilled budgeting, never quite cover your living costs - costs sure to mount with the threat of war!

GET WISE -- ORGANIZE

DOWNSTAIRS

JOIN THE GUILD TODAY

QUESTION: How would another department go about being included under a Guild contract, now covering only editorial employees?

ANSWER: At any time a majority (one over half, excluding ex-officiates) may designate the Guild as representative of that department for purposes of collective bargaining under the Wagner Act. Then that majority would meet, go over contracts on other newspapers that have contracts covering their department and decide what requests to them seem fair. Guild negotiators, chosen and instructed by the departments involved, then negotiate the demands with the management. Simple, isn't it?

RABBI BARNETT R. BRICKNER SAYS:

"Modern Judaism takes the stand that the worker has an inviolable right in the industry in which he works; a right which is equal to that of the investors; that he has a right to organize in unions of his own choice and to bargain collectively. It stands for the moral right of the worker to a living annual wage and believes that the right relations between capital and labor can never be consummated until a just and equitable distribution is made of the national income."

This CITIZEN-NEWS GUILDSMAN belongs to editorial and commercial employees of the Citizen-News. If you like it, say so. If not, ditto. Ideas, criticisms and suggestions are welcome FROM ANYONE in the plant. Communications may be left with Pat Killoran.

General Cashier.....\$50.00

Purchasing Agent..... 50.00

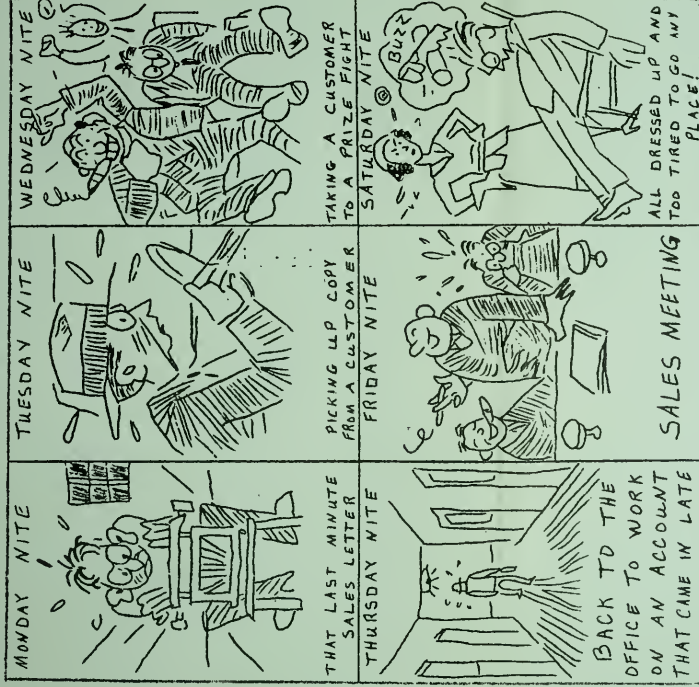
Credit Men and Adjusters

Less than 1 yr. experience..... 30.00
More than 3 yrs. experience..... 40.00

Collectors -- Advertising & Circulation

Less than 1 yr. experience..... 25.00
More than 3 yrs. experience..... 32.50
(For authorized use of automobile, an allowance of \$15a wk. of 5 days will be paid)

Resp. Ex. 6-A (Cont.)



WHEN A FELLER NEEDS A GUN! *Ref. 6-B*

AN EDITORIAL

Should the threatened emasculation of the Wages-Hours bill* become a reality there is more reason than ever why white-collar workers in the higher salary brackets will go wild. Full in their hopes of fair hours and wages on membership in the American Federation of Labor.

Clicked in the sheep's clothing of "redefinitions" are "wolfish" proposals to exempt outside salesmen, employees making less than \$50 a month, and those who are connected as bookkeepers and stenographers and other office help, whose duties are connected solely with the administration of an industry, and who are paid not less than \$30 a week. Obviously these proposals if incorporated in the Wages-Hours bill will throw down to the vanishing point the number of white-collar workers (1,500,000 of them) who have been excluded by this humanitarian bill.

Just because you wear a collar, just because you hobnob with business bigwigs (usually on your own time), just because you are paid more than \$30 a week, 40 hours per week is there any reason why you shouldn't get in on the fair hours and fair wages (time and a half for overtime over 43 hours) that our Federal Government so recently decreed was the right of those who work for their livelihood.

*Proposed changes now referred to committee for study and bound to be fought for in next session of Congress by those who hope to destroy the Wages-Hours bill.

(Continued on page 2)

Respondent's Exhibit 6-B

AN EDITORIAL

(Continued from page 1)

The answer is NO. And that answer is written right into every Guild contract in plain, unmistakable, non-exemptable terms.

Let's examine, as an example, that part of the plant-wide contract covering display advertising salesmen at the Los Angeles Daily News.

FIVE-DAY, FORTY-FOUR WEEK. "Five days (or nights) of eight hours each, continuous in a nine hour period exclusive of meal time, shall constitute a regular work week and time worked in excess of eight hours in any one day or in excess of five days in any one calendar week shall be credited as overtime."

OVERTIME. "Overtime shall be worked when required by the Publisher and shall be paid as follows: If an employee work more than 40 hours but not more than 42 hours in any seven days embracing the employee's work week, overtime shall be compensated for by the allowance of time off for overtime in periods of not less than eight consecutive hours. Overtime in excess of 42 hours shall be paid for in cash at the rate of time and a half for overtime."

MINIMUM WAGES. "The following shall be the MINIMUM wages paid display advertising salesmen, national and display desk men (both local and national):

Display Salesmen
 Less than 1 year experience.....\$35.00
 More than 1 year; less than 2.... 40.00
 More than 2 yrs.; less than 3.... 45.00
 More than 3 yrs.; less than 4.... 50.00
 More than 4 yrs.; less than 5.... 55.00
 More than 5 years experience.... 60.00

Display Desk Men
 Less than 1 year experience.....\$22.50
 More than 1 year; less than 2.... 27.50
 More than 2 yrs.; less than 3.... 32.50
 More than 3 years experience.... 35.00
 Advertising makeup men on both The Daily & Evening News shall receive \$5 in addition to the 3 year scale above set forth.

All this sums up to one sensible conclusion:

GET WISE — ORGANIZE

JOIN THE GUILD TODAY

THEY MADE GOOD

(Fourth of a Series)
VINCENT P. BIEREN, chairman of the Lynn (Mass.) Daily Evening Item during last summer's four months' strike, has been appointed to an executive position in the editorial department. He will have charge of all news coverage as assistant managing editor.

ASK US ANOTHER:

QUESTION: If a person or persons had 3 or 5 years' experience in a department, shouldn't they be entitled to better pay guarantees than a one year man or woman?
ANSWER: Yes. As you will see in the above cited contract there is usually a graduated scale. If there is not, it is because the unit does not ask for it, possibly because the majority do not have more experience than one year.

OUR PROGRESS REPORT

\$15,000 RAISE WON
 IN DETROIT CONTRACT

More than \$15,000 in raises for the coming year; time-and-a-half in cash for overtime over 40 hours; a four day week for weeks in which major holidays fall; and a war-risk clause guaranteeing jobs and severance pay (if incapacitated) for employees called to war service.

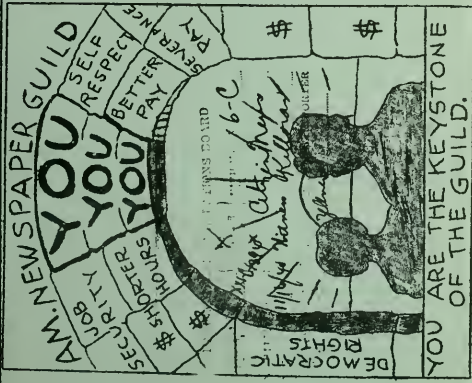
ADULT & ADVE DEPARTMENT

This CITIZEN-NEWS GUILDSMAN belongs to editorial and commercial employees of the Citizen-News. If you like it, say so. If not, ditto. Ideas, criticisms and suggestions go to MacGone. FROM ANYONE in the plant. Communications may be left with Pat Killoffer.



GUILD
 RECEPTION
 COMMITTEE

Resp. Ex. 6-B (cont.)



AN EDITORIAL--

When a new Guild contract was signed on one of the downtown papers a high-salaried salesman from one of the two anti-Guild papers came, a few months ago, to a downtown Guild salesman on the Herald-Express, stuck out his hand and said:

"Fellow, I want you to tell your boys on the Guild negotiating committee that every fellow on our paper wants to thank the Guild for that contract you've just signed. And most of us would tell anyone, if we dared, that we KNOW that the Guild alone is responsible for the improved working conditions we have even in our non-union plant."

Then he told him that as each Guild victory was won--higher wages; shorter hours; mileage and severance pay -- the management of that nonunion plant put practically every provision into effect.

"Of course anybody with good sense known why -- to keep us fellow from wanting to join the Guild. But we aren't so easily fooled. If the Guild can get these things for us even when we are outside the Guild, what couldn't it do if every paper in town were organized?"

There are a lot of people in the Citizen-News who are just as smart as this fellow is. There are a lot of people in the Citizen-News who thank the Guild every time they get a raise, every week they get a bigger pay-check, every week (cont'd. on p. 2)

ASK US ANOTHER

QUESTION: As long as you in the editorial department have your contract, why are you so anxious that members of other departments join the Guild?

ANSWER: Fair enough. We believe that if we, in only one department under contract have been able to negotiate severance pay (one week for every year up to five years and one week for every 30 weeks thereafter up to 26 weeks); higher mileage; five-day, 40-hour week (this has been applied even to editorial department executives since the Guild contract was signed), and other benefits; that if all departments were under Guild contract, all employees would further benefit. We believe that other departments, through their own established Guild units, grievance committees, etc., should have as much say as we do about negotiating the conditions under which they want to work. Sensible, isn't it?

PUBLISHERS HAPPY OVER RISING REVENUES

REPORT DECLINE OF LABOR-TROUBLE IN NEW YORK POST-TOWN

Rising revenues, labor-trouble decline and assurance of an even keel on newspaper, brightened the how-wow of American Newspaper Publishers in 54th annual convention at the Waldorf Astoria, New York City, last week. Here's how it was reported in Newsweek:

"Optimism also was evident on the ledger side of the newspaper business, for committee reports showed:

"That newspaper advertising, which shrank from 1936 through 1938, reversed that downward curve last year and is continuing to climb steadily upward.

"That NOT ONE (caps ours--Ed.) of the 449 ANPA member newspapers was suspended by strikes during 1939. Generally, there were fewer strikes against newspapers last year than in any of the several preceding years."

(cont'd. on p. 2)

RANT AND RAVE DEP'T.

This CITIZEN-NEWS GUILDSMAN belongs to editorial and commercial employees of the Citizen-News. If you like it, say so. If not, ditto. Ideas, criticisms and suggestions are welcome FROM ANYONE in the plant. Communications may be left with Pat Killoran.

HERBERT HOOVER SAID:

The trade unions can fairly claim great credit for the abolition of sweat shops, for recognition of fairer hours in industry, reduction of overstrain, employment under healthful conditions and many other reforms. Those gains have been reached through hard COLLECTIVE BARGAINS (caps ours--Ed.) and part of the difficulties of the labor situation today is the bitterness with which these gains were accomplished.

An Editorial

(cont'd. from p 1)

they get back those dollars that they've spent to run their car; every time they are reminded that "the Citizen-News is on a 40-hour week. Be sure to get your manager's OK (which should mean overtime pay when they work overtime)."

And those same people shudder at the thought of what might happen to raise just and deserved rights and pay rates if over the time came when there was no Guild in the Citizen-News.

It is those people, you, You, and YOU, salesmen of the display advertising department; the boys on the copy desk; the girls and fellows in classified, the folks who work in the commercial department; in circulation, on the switchboard, when we urge to accept our friendly and concerned invitation, JOIN THE GUILD TODAY.

If the Guild in the Citizen-News continues to be your bulwark against pay cuts, against long hours, against dismissal without severance pay, it will be because you have got in there alongside; have enlisted yourselves, your entire departments, on the side of America's 19,000 other Guild men and women.

The minute you join the Guild, it becomes not our Guild, the select property of a few editorial and commercial workers. It becomes YOUR GUILD: a union which is YOUR UNION, a union in which YOU say what's what; YOU determine what to ask for or not to ask for; YOU decide what the policy of YOUR GUILD shall be.

If you sometimes perhaps "haven't liked what the Guild has done," don't do like the guy who doesn't vote but who curses the government. GET IN THERE AND PITCH! Organize your own department Guild unit; write your own contracts; make your own destiny as any hard-working, conscientious newspaper man or woman on the Citizen-News or elsewhere, has a legal -- and a moral -- right to do!

JOIN THE GUILD - MAKE IT YOUR GUILD TODAY

If you think you earn, or, what's more likely, think some day you're going to earn too much money to belong to a union, think this over: Among the "low-paid" people who are unionists are Frank Morgan, president, Joan Blondell, Robert Montgomery, Jimmy Cagney and Lionel Barrymore, all members of the executive board of the Screen Actors Guild, a trade union just like ours.

THEY MADE GOOD

(Second of a series)

WILLIAM M. PINKERTON, 30, editor of the Associated Press' special Sunday staff in Washington, D. C. Pinkerton's newspaper career began in his native Oelbush, Wis. Graduated from the University of Wisconsin in 1931, he worked for the Omaha World-Herald and later for the Kansas City Star. He joined the Associated Press in Washington and the Guild there in 1935. He has covered many major stories such as the beginning of the AAA surplus reduction program and the C-Men's drive against the kidnappers in 1936. He did graduate work in economics at Wisconsin in 1932-33 and expects to pursue the same studies at Harvard as a recent winner of the Pittman Newspaper fellowship.

EXTRA! Elsa Maxwell To Give 1st Public Party for L.A. Guild

The current Guild budget dram up for a six months' period provides for the following monthly expenditures: Organization, \$20; administrative officer, \$110; office salary (part time), \$60; postage, \$40; telephone and telegraph, \$12.50; rent, \$50; printing, \$25; legal, \$35; per capita (to Labor's Non-Partisan League, etc.), \$32.50; donations and advertisements, \$35; audit and collections, \$12; convention expenses, \$50; office equipment, \$11; contribution to CIO radio program, \$65; activities (sports, etc.), \$5; mimeographing, \$25; miscellaneous, \$29. The Guild treasurer makes an itemized report at every membership and Representative Assembly meeting on the month's expenditures.

HERE'S WHERE OUR MONEY GOES

Elsa Maxwell, America's #1 and No. 1 party thrower, is giving her FIRST PUBLIC PARTY for the Los Angeles Newspaper Guild. Briefly announced in Variety on Wednesday, plans for the event, to be held sometime in June, are colossal, stupendous and Terrific. Watch for further announcements here.

Publishers' Happy

(cont'd. from p 1)

"That newspapers now own 67 percent of the nation's 814 radio stations and thus are increasingly sharing in broadcasting revenues.

"That the outbreak of the European war has caused no undue disturbance in the newspaper situation. The existing North American output can care for all American needs.

"That while wage costs of AIPA members continued to rise during 1939 out of all proportion,....the trend of the wage rise has leveled off slightly in 1940."

(Testimony of Patricia Killoran.)

RESPONDENT'S EXHIBIT 7

Citizen-News Guildsman

Written By And For Editorial and
Commercial Employes of the Citizen-News

Vol 1, No. 6 Hollywood, California Aug. 12, 1940

C-N RENEWS GUILD CONTRACT

Severance pay, increases in salary for employes in the lower wage brackets through continuation of a contract in which wages are dependent upon length of service up to five years, are again insured Guild members Under Written Contract, following renewal of the Citizen-News Guild contract signed by management and Guild representatives July 31. The contract extends to June 31, 1941.

Indirectly and to an extent limited by the management's verbal promise (a promise which, according to Willis Sargent, attorney for the management, is admittedly revocable at management will) resigning of this contract indirectly also protects other Citizen-News employes who have been insured by the management of Guild Severance Pay.

Inclusion of a war clause states that in the event of war, leaves of absence, without jeopardizing jobs or severance pay, shall be granted all Guild employes. The management agrees that said employes shall be taken back into his or her old position or into similar positions; that severance pay shall be paid to the estate in the event of death during serv-

(Testimony of Patricia Killoran.)

ice; and to the employe in event he or she becomes physically or mentally incapacitated in war service.

Overtime provisions calling for straight time off or time and one-half off for employes working more than 40 and no more than 42 hours per week; for time and a half in cash for employes working over 42 hours per week are also included in the contract. In the event of death such overtime is paid to the employe's estate.

Salary increases among Guild members since Aug. 38 amounted to approximately \$4500 under terms of the Guild contract. Other salary increases based on increasing length of service are looked forward to by Guild members in the lower salary brackets who do not yet receive the top minimum salary.

Guild representatives point out that further gains, covering all departments such as those already negotiated on the Herald-Express and now in process of negotiation on the News, could more easily be secured at the Citizen-News if the paper were organized on an industrial basis in which all employes participate in Guild benefits, under plant-wide Guild contract.

UNITED WE STAND—AND GROW

Reports made at the last general membership meeting, held last Tuesday, show the following:

At the Herald there are over 250 members of the Guild in good standing with a new contract just signed calling for a modified Guild Shop which will

(Testimony of Patricia Killoran.)

bring scores of other members into the Guild. Nearly 200 members in good standing in all departments at the News give bargaining strength to this unit for negotiations now under way.

64 employes have joined the Guild at the News within the past month. More than 200 members have joined or been reinstated in the Los Angeles Newspaper Guild during the past two months.

“JUST GENERALITIES”

Since the Guild believes that anyone who is fired from his job has the human right to know why and should not be answered when he asks, by any such excuse as “just generalities,” the Citizen-News unit of the Guild asked for and received this clause in their contract, as written protection against such practices:

“Upon Dismissal, an Employe, Upon Request, Shall Receive a Written Notice from the Publisher or His Agent, Stating the Reason or Grounds for Dismissal.”

Just another good reason why You Should Join the Los Angeles Newspaper Guild.

A. N. P. A. WOULD STYMIE US ON WAGE-HOUR ACT

Elisha Hanson, representing the American Newspaper Publishers Association and other publisher associations, appeared at a public hearing of the Wage-Hour Division recently, asking for redefini-

(Testimony of Patricia Killoran.)

tions of wage-hour act terms which, if effective, would exclude large groups of newspaper workers from Wage-Hour law benefits.

The proposed definitions would create separate definitions of "executive" and "administrative," which are treated as synonymous in the present definitions. His redefinition of "administrative" employees would cover anyone receiving \$25 or more a week, who "assists any other employe in an executive capacity," who "supervises responsible work requiring special training and exercises discretion and judgment," or who "has special tasks or assignments relating to management policies or takes part in the general business operations involving exercise of discretion or judgment." These would be excluded From provisions of the Act. In other words just about everyone you could think of who works on a newspaper and has any sense of responsibility toward his job.

Opposing Hanson was Victor Pasche, newly elected secretary-treasurer of the American Newspaper Guild, who effectively set forth the Guild's contention that working newspaper men need the protection of the Wage-Hour Act just as do other industrial employes and have expressed themselves in the face of consistent publisher opposition by forming their own Guild unions, with contracts including ceiling on hours and a floor under wages, as acknowledgment of this need.

(Testimony of Patricia Killoran.)

\$30,000 IN RAISES IN NEW SAN DIEGO GUILD CONTRACT

A contract calling for \$30,000 in raises, night pay and new employes, has been concluded by the San Diego Guild in negotiations with the San Diego Union-Tribune Publishing Company.

The raises range from \$2 to \$15 a week for Advertising, Credit and Collection Departments, with some raises for editorial workers in Lower Experience Groups, which were revised upward. Switchboard Operators get a 35-hour week, pay increases and a provision against split shift.

Severance pay is increased from 24 to 26 weeks. Part time workers get severance pay on the basis of how much time they work.

Strength of bargaining power which results in such gains depends upon the strength of the Guild. United We Stand—For Security for All Working Newspaper Men, Better Hours, Better Working Conditions. Join the Guild Today.

SEVEREST CRITIC!

James Francis Crow, Citizen-News drama editor and Guildsman, shares honors with Frederick Othman, Walter Winchell and other famous critics, in a recent interview "If You Want to be a Critic," by W. Gerdes-Testa in Writers—Markets and Methods, a national magazine. Jim is called "Hollywood's severest critic and the one to whom members

(Testimony of Patricia Killoran.)

of the film colony pay more attention than to anyone else." No mean compliment.

I Want To Join The
LOS ANGELES NEWSPAPER GUILD

Name

Address

Phone..... Department.....

Fill in and mail to the Guild office, 212 West Third Street, or see Pat Killoran, unit chairman, Cit-News

The Witness: Those were used to sell our product.

Trial Examiner Whittemore: Just wait for the question.

Mr. Palmer: I notice it is just a few minutes after 12:00 and I have just one other subject matter to take up with the witness.

Trial Examiner Whittemore: It is agreeable, if it is going to be brief, for you to finish.

Mr. Palmer: I will endeavor to make it very brief.

Trial Examiner Whittemore: You have no extensive redirect of this witness, have you?

Mr. Sokol: No.

Trial Examiner Whittemore: Then if it is agreeable to [466] all, you may proceed.

Mr. Sokol: Can I ask one question now, and maybe you will want to return to it?

Mr. Palmer: Yes.

(Testimony of Patricia Killoran.)

Redirect Examination

Q. (By Mr. Sokol) After the strike and after you returned to work, did the Hollywood-Broadway ever speak to you about the work of the Hollywood-Broadway?

A. Yes. They requested that I come back and write publicity for them.

Q. That store did? A. Yes.

Mr. Palmer: Did you go back and write publicity?

The Witness: Yes. You were there.

Q. (By Mr. Sokol) The store itself requested that? A. Yes.

Q. And about Mr. Sternberg, you said he had criticized your Guild activity, did you?

A. Yes. In the first few weeks after the strike, he was very vehement in his——

Q. What did he say? A. Oh, just——

Q. Give us his words, or the substance of it.

A. ——what a fool I was, and what a monkey I made of myself, and how terrible the C.I.O. was and the Guild was and the [467] strikers were, and so on, and so forth.

Q. Did he say that to other people, too, in your presence?

A. Well, he said it so everybody could hear it.

Mr. Palmer: Who was present?

Q. (By Mr. Sokol) Where was it that he said that?

(Testimony of Patricia Killoran.)

A. Oh, he said it whenever I would talk to him about the home economics, or he would be out, maybe, in the middle of the advertising display office, or any place. He really felt very strongly on the subject.

Mr. Sokol: That is all.

Recross Examination

Q. (By Mr. Palmer) You weren't working under Mr. Sternberg, Miss Killoran?

A. He handles national display advertising for home economics, and he handled the copy, the editorial copy for home economics.

Q. The publicity for home economics?

A. Yes.

Q. Where was the first of these conversations with Mr. Sternberg, that you can recall, the very first one that you can recall?

A. In the first few weeks after the strike, yes, there was so much name calling going on around there, that, honestly, I can't remember which was first, and which was second, and which was third.

Q. There was a good deal of name calling by those who had [468] not gone on strike, and mutually? A. No, not mutually.

Q. There was no name calling on the part of those going out on strike?

A. No, not by me.

Q. The name calling that you heard was wholly by those who had not gone on strike?

(Testimony of Patricia Killoran.)

A. Yes. Mostly executives, in fact.

Q. Well, what executives?

A. Well, John Kemp, and Mr. Sternberg, and Mr. Young, and Mr. Swisher, and yourself.

Q. Now, John Kemp—what is his position?

A. He is the manager of the shopping news.

Q. Manager of the shopping news?

A. Yes.

Q. How many people work with John Kemp?

A. Bob Sunderlund and Mr. Nelson, and I write the front pages of the shopping news.

Q. And when did you have a conversation with John Kemp?

A. When we first came back to work, we had our desks with our backs to John, so practically every morning we carried on some kind of a conversation.

Q. Can you recall any particular conversation with Mr. Kemp? A. Just the usual thing.

Q. Well, what was it? [469]

Mr. Sokol: What is Mr. Kemp's title?

The Witness: He is the manager of the shopping news.

Mr. Sokol: And what was this name calling?

The Witness: Oh, mostly what a fool I had been to go on strike, and I was such a fine girl and it was a shame I had made a monkey of myself, and the Guild only got people into trouble, and he was glad he hadn't continued in the Guild, and so on, and so forth.

(Testimony of Patricia Killoran.)

Q. (By Mr. Palmer) John had been a member of the Guild prior to the strike?

A. At one time. He had just given an initiation fee.

Q. Prior to the strike John Kemp had been a member of the Guild?

A. I don't know. He signed a card, but I don't know, I would have to look that up.

Q. Well, was he admitted to membership after he signed his application?

A. I don't think he was. Was he?

Oh, excuse me. Pardon me.

Mr. Palmer: If your Honor please, I want to say now that I think we had better adjourn until Monday morning, because when I said I had very little more, these additional names hadn't been brought in, but two additional names have been brought in and I wish to question about those in addition to the other things I have. I told your Honor I thought we [470] could finish, but now I think not.

The Witness: That is all I have to say about them.

Mr. Palmer: Well, I am not through with the Sternberg incident.

Trial Examiner Whittemore: I am perfectly willing to continue for a few minutes longer, if you are going to be able to finish with the witness.

Mr. Sargent: Your Honor please, every time I

(Testimony of Patricia Killoran.)

made an engagement within the past few days, I have had to cancel it, and yesterday you said that we would adjourn at 12:00 o'clock, so I made appointments relying on that, and I have one for a quarter past 12:00.

Trial Examiner Whittemore: You are quite right. I did agree to that. I had forgotten that. The thing I was thinking of was that if it was going to be only a few minutes now, I understood that the witness is working——

The Witness: I am awfully busy on Monday, Tuesday and Wednesday.

Mr. Palmer: Your Honor please, our business will probably have to be disrupted more or less next week anyway, because we expect to call many witnesses from the Citizen-News.

The Witness: Well, I can't come.

Trial Examiner Whittemore: Off the record.

(Discussion off the record.)

Trial Examiner Whittemore: On the record.

[471]

Mr. Palmer: We move for a continuance at this time.

Trial Examiner Whittemore: We will adjourn the hearing at this time until Monday morning at 9:30.

(Whereupon, at 12:10 o'clock p. m., November 16, 1940, the hearing in the above entitled matter was adjourned until 9:30 a. m., November 18, 1940. [472])

PATRICIA KILLORAN,

a witness called by and on behalf of the National Labor Relations Board having been previously duly sworn, was examined and testified further as follows:

Recross Examination

(Continued)

Q. (By Mr. Palmer) Miss Killoran, on one conversation with Mr. Young I believe you said you asked Mr. Young why things couldn't be as they were before and Mr. Young replied that things could never be as they were before; is that your testimony?

A. Yes. I said that I had come back intending that things would be the same as they were before and he said they could never be.

Q. When was this conversation held?

A. This was just after I came back to work.

Q. You mean just after the strike?

A. Yes.

Q. After the strike stopped there were two weeks vacation for the strikers and then it was after that when you came back to work?

A. Yes.

Q. Sometime during that first week? [474]

A. Yes.

Q. During the strike, Miss Killoran, your activities were to get advertisers to stop advertising and Mr. Young, as business manager, was trying to get advertising for the paper?

(Testimony of Patricia Killoran.)

Mr. Sokol: I object to the form of the question.

Mr. Palmer: I will withdraw the question.

Q. (By Mr. Palmer) Your activities were activities to get the advertisers to stop advertising in the Citizen-News during the strike?

Mr. Sokol: That is objected to as immaterial.

Mr. Palmer: Well, I will withdraw that question and ask another one.

Q. (By Mr. Palmer) What were the conditions existing before the strike, Miss Killoran, to which you referred?

A. Oh, that I went out and worked as hard as I could and gave service to the advertisers and did my job as well as I knew how and tried to get business for the Citizen-News.

Q. Are you doing that same type of work now?

A. Definitely. [475]

Q. You stated that Mr. Lugoff was very active in Guild activities?

A. Yes, he was.

Q. Now, what was the first activity on the part of Mr. Lugoff in the interest of the Guild that you personally observed?

A. When he rejoined the Guild.

Q. That was the first activity when he rejoined the Guild?

A. Yes.

Q. What was the next activity after he rejoined the Guild?

A. Well, he talked to everyone.

Q. You personally observed this?

A. Yes. I used to sit with him while we were

(Testimony of Patricia Killoran.)

at lunch and hear him around the office and work with him in working up petitions and type petitions and that sort of thing.

Q. Now, the first activity that you can recall, the first specific instance that you can recall.

A. I think it was when he had an argument with Johnny Badovinac.

Q. That is the first instance that you can recall?

A. I can't keep these things in secret——

[480]

Q. I am not going to try to pin you down. I am trying to get things in a chronological order. I forget a lot of things myself and can't recall them.

Now, the first one that you recollect now was the argument he had with Johnny Badovinac?

A. That was the one of the things that stood out in my mind.

Q. You were present at the conversation?

A. I was in the display department.

Q. Where is that? A. Downstairs.

Q. Where did this argument with Johnny Badovinac take place? A. At his desk.

Q. Johnny Badovinac's desk? A. Yes.

Q. You were then sitting at your desk while the argument was taking place? A. Yes.

Q. How far is your desk from Johnny's desk?

A. Oh, as far as from where you are to me.

Q. About 12 feet possibly? A. Yes.

Q. Who was present at that argument?

(Testimony of Patricia Killoran.)

A. Well, everybody that was in the office. I don't recall just exactly who was there but it was a very loud argument, [481] both of them were angry.

Q. What was said?

A. Well, harsh words. I don't remember exactly. I think Johnny said something to Lugoff and Lugoff said something back to him about being a company man.

Q. A company stooge?

A. A company stooge.

Q. Johnny Badovinac had been a member of the Guild prior to the strike?

A. No, he hadn't been.

Q. He hadn't? A. I don't think so.

Q. Prior to the strike there were 49 employees of the Citizen-News who were members of the Guild, were they not?

A. That I don't know.

Q. You do know that there were many members of the Guild employed by the Citizen-News who did not join the strike?

A. There were some that didn't yes.

Q. What is that?

A. There were some that didn't.

Q. Now, what was the next activity on the part of Mr. Lugoff with reference to Guild work that you observed?

A. Well, Mr. Lugoff every time I talked to him—and this was in company with other people or by

(Testimony of Patricia Killoran.)

myself—was always talking about it and I would say he was just hotter than a [482] firecracker about the Guild. He liked it himself and he wanted everybody else to join too and every time he had a chance he talked to people. He talked to various people in company with me across the street at the coffee shop at lunch time and whenever we had a chance we would corner somebody and talk to them. Then he would come up with an idea that this thing would work and maybe something else would work and he would be very happy when he had success.

Q. One other specific instance that you recall when anything coming under this general classification that you have given us took place?

A. Well, I could name innumerable instances.

Q. Name one. I am asking for one now and we will try to hold it down to as few as we can.

A. One time he came to me and asked me to draw up a petition, that he thought he had an idea whereby people could join—whereby people could sign a petition to join the Guild and I did that. Another time he came to me and asked me to draw——

Q. Now, after you drew this petition, do you know what he did with it? Did you see him do anything with it?

A. Yes. He circulated it downstairs.

Q. He told you that or did you see it?

A. I saw names on it.

(Testimony of Patricia Killoran.)

Q. You saw names on the petition? [483]

A. Yes.

Q. How many names?

A. Well, I think that is immaterial. I know how many names but I don't think I should tell you.

Q. Well, I am asking you how many names you saw on the petition.

A. I am afraid that will——

Mr. Palmer: I agree not to ask her whose names.

Trial Examiner Whittemore: I think the number has already been brought out.

The Witness: I think there were about four or five.

Q. Did you see anybody sign the petition?

A. I saw him take them around. I didn't see the actual signatures but I am sure they were actual signatures.

Q. Where was he when he was taking the petition around?

A. In one of the departments of the Citizen-News.

Q. Which department?

A. In the classified department.

Q. In which room of the classified department?

A. In the inner room of the classified department.

Q. Where were you at that time?

A. I was on the front counter.

(Testimony of Patricia Killoran.)

Q. At the front counter?

A. Yes, sir. This was one noon specifically. I happened to be talking, after I had fixed up the petition and given it [484] to him I came down-stairs either on my way out or to lunch and stopped at the front counter, and in fact, talked to one of the girls about it.

Q. At the front counter? A. Yes.

Q. You were talking to one of the girls about joining the Guild? A. Yes.

Q. Or about signing the petition?

A. About signing the petition.

Q. While you were talking to her did you turn and observe Mr. Lugoff?

A. No. He was in the other room.

Q. You didn't observe him then in the other room?

A. When you stand at the front counter at the Citizen right about where Helen Brichoux works now, you can look into the classified department and he had rushed in there with the petition and I stood there talking.

Q. I am asking you if you saw him in that room with the petition? A. Yes.

Q. What was he doing with the petition when you saw him?

A. Well, he was passing it around, I suppose. I mean he was in there with it.

Q. Were there several copies of the petition?

[485]

(Testimony of Patricia Killoran.)

A. At that time there was only one as I recall. In other words, we made individual petitions because we thought that people were so afraid to let each other know—let each other know even that they were going to join the Guild because they were afraid they would get fired, so then we drew up individual petitions.

Q. This day that you saw him in the room, he had one petition? A. Yes.

Q. Did he present it to the employees in that room in a group or individually?

A. No, individually, as I recall. I think it was during the lunch hour is when it was.

Q. Did you see him go to any individual and hand the petition to this individual?

A. I don't recall exactly who it was. There were three or four.

Q. I am not asking you who it was, Miss Killoran, I am trying to stay away from that.

A. Yes.

Q. Did you see him hand it to any individual?

A. This is all a part of a sequence of things, that he worked in there with the petition and I was talking to somebody. I mean I didn't actually see him lay the petition down but I feel very sure—I typed the petition and he [486] took it and tore into the classified advertising department with it and started to talk with somebody undoubtedly. He came up to me and asked me to type it because he thought he had a prospect.

(Testimony of Patricia Killoran.)

Q. You didn't see him show the petition to any individual? A. I saw him walk into classified.

Mr. Sokol: Just answer the question, please.

The Witness: No.

Q. (By Mr. Palmer) Now, what is another instance that you recall of his activities?

A. Well, we had a meeting over at the Knickerbocker Hotel that he was responsible for calling and he was there and some of the other classified people were there.

Q. Was Mr. Tobin there?

A. No, he was not. This was a Guild organizational meeting.

Q. Was Mr. Young there? A. No.

Q. I wasn't there, was I?

A. No. We wouldn't have invited you.

Q. Just employees of the Citizen-News?

A. Yes, that we hoped to get in the Guild.

Q. That you were urging to get into the Guild?

A. Yes.

Q. The next activity or another activity that you can think of? [487]

A. Well, I have heard him talking around the Citizen a lot.

Q. All right, name us an instance.

A. At the front counter and to the people in the display department and to the people in the classified advertising department. I mean there was no doubt that he was——

(Testimony of Patricia Killoran.)

Q. Tell us about some one instance at the front counter when you heard him talking to people.

A. I have talked to him myself.

Q. You and he talked at the front counter about those matters?

A. Yes, and other people in the classified department.

Q. At the front counter?

A. Yes. And across the street.

Q. Where? A. Across the street.

Q. No, I am talking about the front counter.

A. About the front counter and across the street I say.

Q. You do recall an instance when at the front counter he talked with classified employees in your presence? A. Yes, I think I do.

Q. How many classified employees were present at this time?

A. The occasion I remember, one.

Q. One classified employee? A. Yes.

Q. Was that employee Miss Brichoux? [488]

A. No.

Q. It was one who was not a member?

A. Yes.

Q. What did Mr. Lugoff do or say at that time?

A. I think we were probably talking about this petition.

Q. About what? A. About this petition.

Q. This same petition to which you have previously referred?

(Testimony of Patricia Killoran.)

A. Yes; either the first one or the second one.

Q. And he was asking the individual to sign the petition? A. Yes.

Q. What time of day was this, if you can recall?

A. It was again at noontime, because I didn't get downstairs very often except at noontime or at 5:00 o'clock.

Q. Sometime between 12:00 and 1:00 o'clock.

A. Yes.

Q. Now, another instance of Mr. Lugoff's activity?

A. Well, I don't recall any more specific instances?

Q. What?

A. I don't recall any more specific instances.

Mr. Palmer: That is all. [489]

ROGER C. JOHNSON,

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Sokol) State your name.

A. Roger C. Johnson.

Q. Were you employed by the Hollywood Citizen-News? A. Yes.

(Testimony of Roger C. Johnson.)

Q. Do you recall the strike in May, 1938?

A. Yes.

Q. Do you recall that certain firings precipitated the strike? A. Yes.

Q. Who were the people who were fired?

A. Mel Scott, Elizabeth Yeaman, Karl Schlichter, Helen Blair, and myself.

Q. Precisely when were they fired with relation to the negotiation on the contract then ensuing?

A. The day following an agreement on the general contract; that is, three were discharged the next day and three we learned of the following Monday, three days later. [494]

Q. *Were an* officer in the Guild at that time?

A. I was.

Q. In what position?

A. I think I was vice-president at that time.

Mr. Sargent: Is that of the Los Angeles unit?

Q. (By Mr. Sokol) What was that?

A. The Los Angeles unit.

Q. Did you attend the negotiations on the contract? A. I did.

Q. Now, did you attend the meeting at which an announcement was made of these discharges?

A. Yes.

Q. Who made the announcement?

A. Mr. Sargent, Willis Sargent.

Q. What reason did he give?

A. Economy.

(Testimony of Roger C. Johnson.)

Q. With respect to Schlichter, did he at any time give any special reason other than economy?

A. No.

Q. Now, later the strike was settled about July 30th, 1938?

A. Yes.

Q. As part of that settlement, the people who had been discharged went back together with the strikers; is that correct?

A. Yes, that is right. [495]

Q. How about prior to the strike, had the people used by-lines on their stories, some of them?

A. Yes.

Q. What is the importance of a by-line in the newspaper profession?

A. Well, it is a cheap way for the publisher to pay you with honor instead of money.

Q. Mr. Johnson, is there any importance attached to the by-line on the part of a newspaper man?

A. Yes. It is a part of the professional pride of a news- [502] paper man to have his name on a story. It indicates authorship and ownership.

Q. After the strike were by-lines given to the people who had been out on strike?

A. No, not immediately after.

Q. After the strike, right after, was there anything with respect to that? Was the by-line eliminated for those people?

A. Yes, it was, it was eliminated.

(Testimony of Roger C. Johnson.)

Q. Who explained that? Mr. Swisher or Mr. Palmer?

A. Well, I recall Mr. Swisher's explanation that the ill-will created during the strike made it difficult for readers, particularly advertisers, so see the name of various former strikers without becoming alarmed at the name, recalling old feelings from the strike.

Q. Do you know if the paper ever received any such complaints?

Mr. Sargent: I object unless he knows of his own knowledge.

Trial Examiner Whittemore: He was asked if he knew.

The Witness: I know of only one instance and that was in the case of Warner Brothers, who objected to the use of Jim Crow's name on drama stories.

Q. (By Mr. Sokol) Is that with respect to the strike or was that with respect to Crow's own stories, the way he handled the reviews of the pictures? [503]

A. It was in connection with the strike. We had picketed the theater, Warner Brothers Theater.

Q. Did you attend the meetings with the management over the discharge of Mr. Schlichter?

A. No. I had resigned from it in the meantime.

Q. You had resigned from the paper?

A. Yes.

(Testimony of Roger C. Johnson.)

Q. Why did you resign from the paper?

A. Well, I thought there was no opportunity for me to do my actual accustomed work.

Q. Do you know a man by the name of Guild, G-u-i-l-d?

A. I know a man by *the Guild*, spelled the same but pronounced different.

Q. Was he hired during the strike?

A. Yes.

Q. In what capacity?

A. Well, I believe it was in the sports department.

Q. Was he retained after the strike?

A. Not immediately after. He, as I understand it, was employed after I had left the paper.

Q. You weren't there then? A. No.

Q. When did you leave the paper?

A. Early in October, 1939.

Q. You stated that you were assigned to the copy desk? [504] A. Yes. [505]

Mr. Palmer: When were those notes made, Roger?

The Witness: The same day as the meeting.

Mr. Palmer: All right.

The Witness: This was a meeting on December 6, 1938. Floyd Simonton was the spokesman and Jim Crow, Pat Killoran, Lowell Rodeling and I called on Judge Palmer to determine his attitude about January 1st. He had——

(Testimony of Roger C. Johnson.)

Mr. Sargent: Excuse me. I am sorry, but may I have those names again, please? [508]

The Witness: Floyd Simonton was spokesman, Jim Crow, Pat Killoran, Lowell Rodeling and I.

Mr. Sargent: Thank you.

Q. (By Mr. Sokol) This meeting was with respect to a certain statement by Mr. Palmer regarding January 1st? A. Yes.

Q. 1939? A. Yes.

Mr. Palmer: I don't believe he said that on direct. He said he went to ask Mr. Palmer about what was going to happen January the 1st.

Trial Examiner Whittemore: About his attitude about January 1st. I was going to inquire about that myself.

Q. (By Mr. Sokol) Had Mr. Palmer stated to you anything concerning that particular date January 1st previously? A. Yes, he had.

Q. When?

A. Oh, on several occasions particularly one I recall in October.

Q. 1938? A. 1938.

Q. What did he say on that occasion?

A. He said that 10 or 20 persons would be discharged.

Q. What was the occasion of his saying that?

A. The basis was a—our contract which stated that—— [509]

Q. I am asking you what did Mr. Palmer say?

(Testimony of Roger C. Johnson.)

What was this meeting about at which time he said 10 to 20 people would be discharged?

A. It was the grievance committee discussing the return of strikers to their previous positions.

Q. All right. Now, at that time you brought up certain grievances with respect to this new work that was assigned to these people; is that correct.

A. Yes.

Q. What did Mr. Palmer say?

A. He said that 10 or 20 persons would be discharged the 1st of January.

Q. What did he say about adjusting these matters, these grievances?

A. Well, his main contention was that we were interfering with the management's prerogative when we tried to tell the publishers what positions various people should hold and we agreed with him but we also stated that in the interest of efficiency and harmony that they should be returned to their old positions where they could function best.

Q. What did he say?

Mr. Palmer: May I inquire if this is the December 6th session that you are telling us?

The Witness: No, I am relating the October meeting.

Mr. Palmer: I see. [510]

Q. (By Mr. Sokol) What did he say about that?

A. Repeat my last remark, will you, please?

(Testimony of Roger C. Johnson.)

(Record read by the reporter.)

The Witness: Well, his reply was also that the people had been forced upon him and that the management was trying to do the best it could under the circumstances. It was either at this meeting or at a similar one in which he stated that the Labor Board was comprised of crooks and thieves for forcing us on the payroll when the management didn't want or need us and I got the inference that the Guild members were included in that statement because we agreed with the decision.

Q. Because you what?

A. Because we agreed with the decision.

Q. What do you mean by that statement?

A. Because we agreed with the Labor Board.

Mr. Palmer: It was the Examiner, wasn't it?

The Witness: The Examiner, yes.

Q. (By Mr. Sokol) Now, on December of that year, December 6, 1939, was this meeting, or 1938?

A. This is 1938.

Q. That is 1938?

A. Yes. Do you want me to go on with the meeting?

Q. Yes, the December 6th meeting now.

A. The Judge said that there were from 10 to 20 jobs too [511] many and he accused us of spreading false rumors and he mentioned as one my statement to the unit from Mayor Fletcher Bowron that 10 to 20 percent would be selected by lot for discharge.

(Testimony of Roger C. Johnson.)

Q. Had Mayor Bowron told you that?

A. Yes.

Q. What did he tell you?

A. He told me in October, 1938, that he wanted to know, first of all, how the Citizen-News was getting along, whether we were returning——

Q. Just tell us what he said about that. Did he say where he got his information?

A. He said Judge Palmer told him that 10 to 20 percent would be discharged according to lot.

Q. Can you continue with this meeting?

A. Then the Judge said *that did* not know how many would be discharged the 1st of January. He said that we knew more about what was going on than he does and then after Harold Swisher, the managing editor, gave Mr. Palmer a note, Palmer made it clear that the discharges would be all over the plant. [512]

J. R. TOBIN,

a witness called by and on behalf of the respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Palmer) What is your full name?

A. J. R. Tobin.

Q. You reside where? A. Santa Monica.

Q. Where are you employed?

(Testimony of J. R. Tobin.)

A. In the Citizen-News.

Q. How long have you been so employed?

A. 17 years.

Q. What is your present position?

A. Classified advertising manager.

Q. How long have you been classified advertising manager? A. 16½ years.

Q. In the month of July, 1938, Mr. Tobin, did you have any conversation with Mr. Lugoff in reference to his future employment?

A. Why, in July of '38?

Q. Yes, or August, July or August of '38? [577]

A. Well, prior to Lugoff's going on his vacation he came up to me and said that——

Q. Was that in July or August?

A. That was in August, I believe, of '38. He said that in view of the fact that his lineage was so low he wondered, if he would have a job when he got back from his vacation, and I told him that I couldn't give him any assurance at all that he *he* would have a job when he got back.

Q. Did he make any remark at that time?

A. Yes, he said that he owed some money or was going to incur a debt or something to that effect.

Q. Did you make any statement to him about going ahead and making the loan, or incurring the debt? A. No, sir.

Q. Then after he returned from vacation did you have any conversation with him in reference to future employment?

(Testimony of J. R. Tobin.)

A. Well, if I remember correctly, when he came back I was on my vacation.

Q. Wasn't Mr. Lugoff discharged sometime in '38 by you? A. Yes, sir.

Q. When was that? Before you went on vacation?

A. Yes, just before I went on my vacation.

Q. Do you remember where the conversation took place in which you told him of his discharge?

A. It was in my office, yes. [578]

Q. Do you remember anything that you said or that Mr. Lugoff said at that time?

A. This is in August, 1938?

Q. Yes, at the time of the discharge in '38.

A. No, nothing—well, of course, I told him why he was being discharged because his production had been so low and then the rest of the conversation was—would you repeat Judge Palmer's question to me?

Q. You are telling the conversation, that is what I want.

A. This was before he was discharged?

Q. No, at the time he was discharged did Mr. Lugoff say anything at that time?

A. No, I hadn't seen Lugoff at all then.

Q. Now, I mean at the time that you said you told him he was discharged, did Mr. Lugoff make any reply to that notification by you to him that he was discharged? Do you recall anything that Mr. Lugoff said at that time?

(Testimony of J. R. Tobin.)

A. No, I don't believe I do,

Q. Did you receive any notification from Mr. Young after his discharge that he was reinstated?

A. Yes, I received a notification after I got back from my vacation.

Q. You did?

A. That he had been reinstated, yes.

Q. What is that? [579]

A. I received a notification from Young that he had been reinstated.

Q. While you were on vacation?

A. While I was on vacation.

Q. Mr. Lugoff had been working? A. Yes.

Q. For the Citizen-News?

A. That is correct.

Q. At the time of the discharge was anything said by Mr. Lugoff about his having made a loan?

A. No, I don't believe he did tell me definitely whether he had made a loan or not. I can't remember whether he told me that he had made a loan or that he incurred some debt. It was one of those two things, I have forgotten which.

Q. At the time of the discharge? A. Yes.

Q. At the time of the discharge did he tell you about the debt?

A. No, I don't believe he did.

Q. In connection with Mr. Lugoff's work did you following his reinstatement in August, 1938 and prior to his discharge in March, 1940, did you give him any instructions or orders or make any re-

(Testimony of J. R. Tobin.)

quests upon Mr. Lugoff as to work that you desired him to perform? A. Well, yes. [580]

Q. Just answer yes or no. A. Yes.

Q. I call your attention to Respondent's Exhibit 3, for identification, and ask you if you can tell us what that document is?

A. That is a carbon copy of a list of specific calls that I asked Lugoff to make on specific days on the days on this piece of paper.

Mr. Sokol: It says August 16th, what is the year?

The Witness: 1939.

Mr. Sokol: Are you sure it wasn't '38; which was it?

The Witness: '39.

Q. (By Mr. Palmer) Did you give him any other similar notices?

A. Yes, I believe I gave him a total of four such sheets.

Q. A total of how many?

A. Three or four.

Mr. Palmer: Mark these two documents Respondent's Exhibits 3-B and 3-C, for identification.

(Thereupon, the documents referred to were marked as Respondent's Exhibits 3-B and 3-C, for identification.)

Mr. Sokol: Now, you want this in as 3-A?

Mr. Palmer: Yes. I will offer 3, for identification, as Respondent's Exhibit 3 in evidence.

(Testimony of J. R. Tobin.)

Trial Examiner Whittemore: Well, let's get this [581] straight. There has been an exhibit marked 3 for identification. You now wish to offer 3 for identification as 3A in evidence?

Mr. Palmer: Yes. I offer 3 for identification as 3A.

Trial Examiner Whittemore: Any objection?

Mr. Sokol: No objection.

Trial Examiner Whittemore: The document is received as Respondent's Exhibit 3A.

(Thereupon, the document heretofore marked for identification as Respondent's Exhibit 3, was received in evidence as Respondent's Exhibit 3A.)

(Testimony of J. R. Tobin.)

RESPONDENT'S EXHIBIT 3-A

Lugoff:

Will you make the following calls on the days specified and report result of call on your daily report sheet.

TOBIN

Wednesday August 16th

Apt. House 1730 El Cerrito Pl—No call made

Pava Sed Apts 1817 Ivar—8-21 Not in

Apt House 1645 N. Alexandria—No call made

Thursday August 17th.

Norris 1771 Caluenga—8-31

6380 Sunset Blvd—8-16

Xray school 6331 Hollywood Bl^v

Friday August 18th

Television 3rd. floor 1025 Highland Ave—No call made

Siegel 998 N Caluenga—8.22—Not in

5714½ Sunset Blvd.—No call made

Q. (By Mr. Palmer) I show you now document marked Respondent's Exhibit 3B for identification and ask you if you know what that document is?

A. It is the same as the previous one.

Mr. Sokol: Is that for 1939?

The Witness: 1939.

Q. (By Mr. Palmer) Is it a copy of the original? A. It is a copy of the original.

(Testimony of J. R. Tobin.)

Q. That you handed to Mr. Lugoff?

A. Yes for calls that were to be made on these specific dates.

Q. And I show you Respondent's Exhibit 3C for identification and ask you if you can state what that document is?

A. Yes, this is another carbon copy of a list of calls that [582] was given to Lugoff to be made on these specific dates.

Mr. Palmer: I now offer Respondent's Exhibit 3B and 3C for identification as exhibits with those respective numbers.

Mr. Sokol: Now, on 3B, when did you put this pencil notation opposite the name Bohlin—"8-2 not in"?

The Witness: When did I put that in?

Mr. Sokol: Yes.

The Witness: Oh, it might have been two or three weeks after that date.

Mr. Sokol: What does that "not in" mean?

The Witness: The party designated was not in when the call was made.

Mr. Sokol: In other words, Lugoff reported to you on August 2nd that he had gone to this place and the man was not in; is that right?

The Witness: Well, he didn't report in person. I checked from a record of his own calls and found out about these calls.

Mr. Palmer: I will tie these records in.

(Testimony of J. R. Tobin.)

Mr. Sokol: I see you have other records showing what calls he made?

Mr. Palmer: Yes, that is right.

Mr. Sokol: And these notations are no part of the record? [583]

Mr. Palmer: That is right.

Mr. Sokol: That also then to Respondent's Exhibit 3A?

Mr. Palmer: Yes, that is right, 3B and 3C.

Mr. Sokol: The pencil notations are no part of the exhibit?

Mr. Palmer: That is right.

Mr. Sokol: It is so stipulated.

Trial Examiner Whittemore: Then 3B and 3C are received into evidence.

(Thereupon, the documents heretofore marked for identification as Respondent's Exhibits 3B and 3C, were received in evidence.)

(Testimony of J. R. Tobin.)

RESPONDENT'S EXHIBIT 3-B

August 1, 1939

Lugoff; Will you make the following calls on the days specified in addition to the regular calls you make and turn in a report on the outcome of each call.

JRT

Wednesday August 2

Bohlin 5760 Sunset Blvd—8-2 Not in
Local Loan 1680 N. Vine—8-2
Hollywood Sadelry 6309 Sunset—8-2
Somerset Apts 6075 Franklin—8-2 Not in
Hilton 1235 N. Vine—8-2 Not in—never did see
Satyr Book Shop 1620 N. Vine—8-2 Got ad

Thursday August 3

Toberman Co 7065 Franklin—8-8
Harotunian 7066 Hollywood Bl—8-7
Int. Press 1503 N. Las Palmas—8-8
Desmond & Hammond 833 N. Highland—No call
made
Maximum Finance 7075 Sunset Bl.—8-8
Holly Int. Academy 6636 Holly Blvd—8-7

Friday August 4

Christie Hotel Holly Blvd—8-7 not in 8-8 not in
C. C. and Banker 6636 Hollywood Bl—8-7 not in
All American Bus 6409 Holly Bl—8-8
5870 Hollywood Blvd—Never did call
O'Connor 5717 Sunset—No call made
St. Moritz Hotel 5849 Sunset Bl—No call made

(Testimony of J. R. Tobin.)

RESPONDENT'S EXHIBIT 3-C

August 8, 1939

Lugoff;

Will you make the following calls on the day specified and turn in result of call with your regular daily report.

TOBIN

Wednesday August 9th

B. B. Tankel 417 Taft Bldg.—8-9 not in
Rm. 1108 6331 Hollywood Blvd—8-9
Electrolux #309 1655 N. Cherokee—8-9
6694 Sunset Blvd.—8-10

Thursday August 10th

Holly Cemetary 6000 Santa M. Blvd—8-10
Smith 5646 Holly Blvd—8-10 not in 8-14 not in
—never did see
Langleys 309 N. Western—8-10
1850 N. Cherokee—8-10

Friday August 11th

Mr. Engler 5910 Sunset Bl—8-31
St. Francis Hotel 5533 Holly Blvd
Eisendrath 6331 Hollywood Bl—8-21 not in—
never did see
Mr. Wood Stonhaven Apts 1523 N. McCadden—
no call made

Mr. Sokol: Was Respondent's Exhibit 2 admitted as an exhibit?

(Testimony of J. R. Tobin.)

Trial Examiner Whittemore: It hasn't been offered. It was marked but not offered.

Q. (By Mr. Palmer) I call your attention to a document marked Respondent's Exhibit 2 for identification and ask you if you can tell us what that document is?

A. Yes. That is the daily report sheet that Lugoff was required to make out on each call that he made on that particular day.

Q. For the date of August 16, 1939?

A. August 16, 1939.

Mr. Sokol: May we go off the record for a minute? [584]

Trial Examiner Whittemore: Yes, off the record.
(Discussion off the record.)

Trial Examiner Whittemore: On the record.

Mr. Palmer: May I offer the document previously marked Respondent's Exhibit 2 for identification as Respondent's Exhibit 2A?

Mr. Sokol: That is in Lugoff's writing, is it?

The Witness: Yes, it is.

Mr. Sokol: No objection.

Trial Examiner Whittemore: The document marked Respondent's 2 for identification will be received as Respondent's Exhibit 2A.

(Thereupon, the document heretofore marked for identification as Respondent's Exhibit No. 2 for identification, as received in evidence as Respondent's Exhibit 2A.)

DAILY

Form D-63

Name

Address

Contact

Name

Address

Contact

Name

Address

Contact

Name

Address

Contact

Name

Address

Contact

Name

Address

Contact

Name

Address

Contact

Name

Address

Contact

Name

Address

Contact

Name

Address

Contact

no ads

See items for a/c

no edu

Respondents Exhibit 2-A

Aug 16 1937

DAILY REPORT

SALESMAN

Lusoff

Form D-8

ACCOUNT	NEW ACCOUNT	REMARKS	CONTRACT NUMBER	SPACE
Name <u>D. H. Pico</u> Address <u>2675 Rutledge</u> Contact		2 hrs c'd		
Name <u>Jeff Ratty</u> Address <u>6215 Yucca</u> Contact		See Thurs. - 2 c'd		
Name <u>Traylor Hotel</u> Address <u>6515 Franklin</u> Contact		See Thurs. G. M.		
Name <u>Zork</u> Address <u>6100 4th Pl.</u> Contact		Killed c'd		
Name <u>Green Hotel</u> Address <u>5620 1/2 St. N. Blvd</u> Contact		Chasing Hand See Thurs.		
Name <u>May Kats</u> Address <u>5429 5th St. N. Blvd</u> Contact		See Thurs.		
Name <u>Wings Cafe</u> Address <u>1643 Catherg</u> Contact		See next week		
Name <u>Hall and Cafe</u> Address <u>4500 1st St. N.</u> Contact		Dis c'd		
Name <u>Stenderby</u> Address <u>6119 Elmore</u> Contact		See Thurs.		
Name <u>Muller Bros</u> Address <u>6380 Summit</u> Contact		No c'd		

Lucas Jellis
1646 N. Catherg

no ads

Morse Farm Co
5604 St. N. Blvd

See Thurs for c'd

Waters East Apt
1971 18th Avenue

no ads

(Testimony of J. R. Tobin.)

Trial Examiner Whittemore: Let the rest of them be marked.

(Thereupon, the documents referred to were marked as Respondent's Exhibits 2B to 2R inclusive, for identification.)

Q. (By Mr. Palmer) I show you documents marked 2B to 2R inclusive, and ask you if you can identify those?

A. They are all daily reports of calls that Lugoff made on those particular days. [585]

Q. Report sheets filled out by him?

A. By Lugoff in person, yes.

Mr. Palmer: I offer them as Respondent's Exhibits 2B to 2R inclusive.

Mr. Sokol: No objection.

Trial Examiner Whittemore: They are received.

(Thereupon, the documents heretofore marked for identification as Respondent's Exhibits 2B to 2R inclusive, were received in evidence.)

R² Respondents' Exhibits

DAILY REPORT

SALESMAN

Aug 8 1939

L. J. J.

ACCOUNT	NEW ACCOUNT	REMARKS	NEW ACCOUNT	SPACE
Name Peltons Cof Address 1357 Vine Contact		Chase 1/2 City		
Name Hollywood Polytechnic Address 1632 Vine Contact		not in See PM not in		
Name Thompson Address 6231 Hollywood Contact		Out 1/2 City		
Name Guaranty Loe Address 6331 Hollywood Contact		No adv		
Name Mrs Stinchfield Address 6119 Plummer Contact		2 lines		
Name Out Press Address 1503 N. La Brea Contact		No adv		
Name Magnesium Division Address 7075 Sunset Contact		No adv		
Name Telma Cof Address 6763 Hollywood Contact		No adv		
Name 1st National Savings & Loan Address 6763 Hollywood Contact		Donor not in		
Name Christie Hotel Address 6724 Hollywood Contact		Silver not in		

Wings Cof

1643 Oakmeadow

No adv

House of Stockholm

1716 N Vine

See later in week

All American Bus

6409 Hollywood

No adv. Truck of legal title.
Mrs Allen if doc was changed

Mach Jones Cof

7104 Beverly Blvd

not in See later in week

Merrill Jones Hotel

Ocean Park

Dined to collect

(Testimony of J. R. Tobin.)

Q. (By Mr. Palmer) Now, referring to the pencil notation on Respondent's Exhibits 3A, B and C, I will ask you to explain those. First, are they in your handwriting?

A. Those are in my handwriting.

Q. Will you tell me what they refer to?

A. They were notes that I took off of his daily report sheets.

Mr. Sokol: It has been stipulated that they are no part of the record.

Q. (By Mr. Palmer) Under date of Wednesday, August 16th, where you made a notation after "Apartment house 1730 El Cerrito Place; no call made." What does that mean?

A. That means according to the report that he turned in, the call was not made.

Q. "Pava Sed Apartments, 1817 Ivar?" And after that is the notation "8-21 not in." What does that mean? [586]

A. That means that he called on them on the 21st and the party wasn't in.

Q. The report sheet shows they were not in?

A. Yes.

Q. And likewise throughout these three exhibits, Respondent's 3A, B and C, the notations thereon are based upon the daily report sheets of Mr. Lugoff? A. Yes.

Q. Did you give Mr. Lugoff any other instructions for calls in addition to such sheets as those that have been admitted in evidence?

(Testimony of J. R. Tobin.)

A. Well, yes. Each week we got all of the clippings from the Los Angeles Sunday newspapers that are in our territory and those clippings are sorted out and given to persons on each territory. Lugoff would get his, anywhere from 30 to 50 leads out of these clippings.

Q. What is a lead?

A. A lead is an ad that is running in a newspaper other than our own, in one of the Los Angeles Sunday newspapers.

Q. How did you determine what leads to give to Mr. Lugoff?

A. He got those that were in his territory.

Q. Advertisers whose addresses were within the territory were set aside for Mr. Lugoff and were given to Mr. Lugoff?

A. That is correct.

[587]

Q. What results did Mr. Lugoff obtain from those leads?

Mr. Sokol: Just a minute. I object to that. I don't know what leads he is referring to. If there are any leads for specific dates or records to show what results were obtained that would be the best evidence.

Mr. Palmer: I am not referring to any specific date. What was Mr. Lugoff's practice in handling those leads?

Mr. Sokol: I object to that, Mr. Examiner. They have reports.

(Testimony of J. R. Tobin.)

Trial Examiner Whittemore: This is, I assume, all preliminary. It isn't worth very much unless it is. He has asked him to explain what leads are and he has asked him what he was supposed to do with those leads.

Mr. Sokol: That is a different matter if the witness is just to tell what Lugoff was supposed to do.

Trial Examiner Whittemore: He asked him what his practice was.

Mr. Palmer: What was Mr. Lugoff supposed to do with the leads? What did you ask him to do?

A. Asked him to make those calls.

Q. To call upon those advertisers whose ads you had clipped from other papers and given to Mr. Lugoff? A. Yes.

Q. What was the practice in reference to these leads? A. Not to—— [588]

Mr. Sokol: Mr. Examiner, if there are records of what calls he made that is the best evidence. Now, the practice would be a conclusion on the part of this witness. There are records kept?

Q. (By Mr. Palmer) Have you any records made by Mr. Lugoff as to what he did with the leads that you gave to him?

A. Are you referring to these leads here?

Q. No, those leads refer to the yellow sheets.

A. Will you repeat that question again?

Q. Have you any records made by Mr. Lugoff which may indicate what he did with these news-

(Testimony of J. R. Tobin.)

paper ads, the newspaper ad leads which you gave to him? A. No.

Q. Were any records ever made?

A. No written records, no. There were oral conversations between Lugoff and myself and what happened on the calls that he made.

Q. Can you recall any conversation with Mr. Lugoff in reference to these newspaper leads?

A. Well, I can recall the conversations practically every week that he got these leads.

Mr. Sokol: May we have the time, place, and parties present?

Q. (By Mr. Palmer) If you can recall any one.

A. Is there a calendar here of 1939? [589]

Mr. Sokol: Would you fix the date, however, when you can recall a conversation with him. First answer that.

The Witness: Yes, I can.

Q. (By Mr. Palmer) Do you approximately when that was?

A. Yes, that was on a Wednesday morning. I say Wednesday because these leads were all given out on Wednesday.

Trial Examiner Whittemore: Here is a calendar.

The Witness: Well, we will say June.

Mr. Sokol: We will say——

The Witness: June, yes.

(Testimony of J. R. Tobin.)

Mr. Sokol: June of what year?

The Witness: 1939.

Q. (By Mr. Palmer) And on some Wednesday morning in the month of June? A. Yes.

Q. 1939. When you talked to Mr. Lugoff where was the conversation held? A. In my office.

Q. Was anyone present besides yourself and Mr. Lugoff? A. No.

Q. Relate the conversation, please?

A. Well, I asked him if for a change he wouldn't actually make these calls on the leads that I was giving him on this particular day, that he hadn't been making many.

Mr. Sokol: Now, is this the conversation? [590]

The Witness: As I remember, yes, it is. This is my conversation to him.

Mr. Sokol: All right.

The Witness: Would you repeat what I said there?

(Record read by the reporter.)

The Witness: And he said that he would.

Q. (By Mr. Palmer) Then after that did you speak to him again? A. Yes.

Q. When was that that you next spoke to him?

A. Well, it was probably two or three days—that was probably three or four days after that, perhaps the first of the next week.

Q. Where was this conversation held?

(Testimony of J. R. Tobin.)

A. At my desk?

Q. And——

A. I might say when he was given these leads he was requested to make the call and write out a report on that particular slip of paper that the advertisement was on as to what happened as a result of that call.

Q. Now, in the next conversation that you held you think that was the following Monday?

A. Yes.

Q. Where was that held?

A. In my office. [591]

Q. Who was present?

A. Just Lugoff and myself.

Q. What was said by you and by him?

A. Well, the same conversation that we had for a couple of years.

Mr. Sokol: I object to that and move to strike it out.

Q. (By Mr. Palmer) In substance, what was said at this particular conversation?

Trial Examiner Whittemore: It may got out.

Mr. Palmer: The substance of what was said at this particular conversation?

Trial Examiner Whittemore: What was said on that second Monday morning.

Mr. Sokol: Well, I have no objection to that being in there, the same as he said to him for a couple of years.

(Testimony of J. R. Tobin.)

Trial Examiner Whittemore: You objected and I sustained the objection.

The Witness: Shall I answer the question now?

Q. (By Mr. Palmer) On this Monday morning to the best of your recollection, what is substance was said?

A. I asked him to give me these leads that I had given to him the previous Wednesday and his report on them and he said he hadn't made any of the calls.

Q. Was anything further said at that time?

A. Well, I cautioned him that in the future those calls [592] should be made.

Q. In the future did he make calls?

A. He did not.

Mr. Sokol: I move to strike that.

Trial Examiner Whittemore: Well, I think that is altogether too broad.

Mr. Sokol: May that be stricken?

Trial Examiner Whittemore: It may be.

Q. (By Mr. Palmer) After that did you talk to him about these leads at any time?

A. Well, it got to the point that—

Q. No, just answer yes or no, did you talk to him after that?

A. Yes, I talked to him each week.

Q. Each week? A. Yes.

Q. Did he in any of those subsequent conversations make a report to you of what he had done with the leads?

(Testimony of J. R. Tobin.)

Mr. Sokol: I object to that. It calls for the conclusion of the witness.

Trial Examiner Whittemore: No, I will allow that question.

The Witness: Will you read that again?

(Question read by the reporter.)

Trial Examiner Whittemore: You can answer that yes or [593] no.

The Witness: Yes.

Q. (By Mr. Palmer) Did he? A. Yes.

Q. Do you remember any one of them in particular?

A. I do recall one in particular but I can't place the name of this concern.

Q. Well, do you remember any occasion when you talked to him about the group of leads handed to him?

A. Well, on this particular occasion he was given a lead and requested to call on it that morning for sure which he did and went out and got the ad.

Q. Was there any other time when he made a call that you requested him that he got an ad?

Mr. Sokol: That is objected to. I would like to have the time of some of these transactions.

Mr. Palmer: He may answer that yes or no. Was there any other time when you requested him to make calls that he did make the calls and get ads?

The Witness: You want specific instances now?

Q. (By Mr. Palmer) No, just yes or no.

(Testimony of J. R. Tobin.)

A. No.

Q. There were not. There were no other times.

A. Well—Where he went out and got the ads?
[594]

Q. Yes.

A. Yes, there were others but very few.

Q. What? A. But very few.

Q. Could you estimate what proportion of the leads that you assigned to him that he reported that he had made calls upon or turned in ads?

Mr. Sokol: That is objected to as compound and complex.

Trial Examiner Whittemore: I think perhaps he had better find out first if any records were kept.

Mr. Palmer: The witness has testified none were kept.

Trial Examiner Whittemore: Were any records kept as to the number of leads that he gave him each day or each week?

The Witness: No.

Trial Examiner Whittemore: You have no records of any kind?

The Witness: No.

Trial Examiner Whittemore: All you have is your memory on it?

The Witness: Well, when I say that we could refer to the leads that were on Lugoff's territory, see, last week. I don't imagine that number would vary a great deal. There would still be the proportionate number of leads that we are still getting.

(Testimony of J. R. Tobin.)

Q. (By Mr. Palmer) Have you any record of the leads that [595] he had on the territory on his last week? A. No.

Q. Approximately how many leads on an average were on his territory a week?

A. Around 50.

Q. Did he subsequently to this conversation in which you specifically asked him to make a return on the leads, and he replied that he had not made a call, did he subsequently return his leads to you with his notation on them? Did he regularly return his leads after that?

A. No, he did not.

Q. With his notation? A. No.

Q. Each week you make up a record of the production of the salesmen during the week?

A. Yes.

Q. And these records show Mr. Lugoff's production along with the production of other salesmen? A. Yes.

Q. And other telephone solicitors?

A. Yes.

Q. In Mr. Lugoff's type of work between August, 1938, and March 30, 1940, what other salesmen were engaged working on the same type of work?

A. Reid. [596]

Q. Give the others.

A. Allen, McKellar, and Reid.

Q. Reid, Allen, McKellar and Lugoff?

(Testimony of J. R. Tobin.)

A. And Lugoff.

Q. What territory did Reid have?

A. Reid had the territory west of Highland Avenue north and south as far as he wished to go in addition to the automotive accounts, regardless of where they might be.

Q. In addition to that territory he had the automobile accounts regardless of where the automobile concern might be located?

A. Yes. He didn't necessarily have all of them, though, I will qualify that statement.

Q. What does that qualification mean that he didn't necessarily have them all. Did Lugoff *had* some?

A. At times he had some.

Q. How were they given to Lugoff at times?

A. Well, those that Lugoff might have had, and they were few, perhaps one or two were very small used car dealers.

Q. They would be given to him by your assignment?

A. That is right.

Q. But in the main Reid had the territory west of Highland Avenue plus automotive accounts?

Q. And Where to Dine? [597]

A. Yes.

Q. Mr. Lugoff sold Where to Dine, didn't he?

A. That is correct.

Q. All of the force could sell Where to Dine?

A. That is correct.

Q. Mr. Lugoff's territory was what?

(Testimony of J. R. Tobin.)

A. His territory was from Highland to Western Avenue north and south so far as he wished to go.

Q. North and south so far as he wished to go?

A. Yes. Well, I might make that southern boundary Beverly Boulevard.

Q. Now, in that territory the central part of Hollywood is located? A. Yes.

Q. And the Citizen-News building is located within that territory? A. That is correct.

Q. That territory surrounds the Citizen-News office? A. That is correct.

Q. What territory or accounts did Miss McKellar have?

A. She was restricted almost wholly to automotive accounts in downtown Los Angeles.

Q. Did she have any accounts at all in the Hollywood area?

A. She had one for some time. What particular time are you speaking of? [598]

Q. Any time during the period between August, 1938 and March 30th.

A. Yes, she had one account?

Q. One account? A. Yes.

Q. What territory or classification did Mr. Allen have?

A. He had the territory east of Western Avenue and downtown Los Angeles.

Q. Downtown Los Angeles with the exception of the automotive account?

(Testimony of J. R. Tobin.)

A. With the exception of automotives.

Q. He could be any place he wanted east of Western Avenue?

A. Yes, and Where to Dine also.

Q. These Where to Dine accounts, could they solicit them anywhere or only within their own territory?

A. They could be solicited anywhere at all. It was open territory.

Q. Anyone of the four could do that?

A. That is correct.

Q. Now, have you made a summary of the weekly computations of lineage production of each of these four employees? A. Yes, I have.

Q. These were made under your direction?

A. Yes.

Q. From the official figures, from the original figures kept [599] in your office? A. Yes.

Mr. Sokol: May I see those?

Mr. Palmer: Yes.

Mr. Sokol: Did you make these computations up yourself?

The Witness: No, I did not.

Mr. Sokol: Did you check them against the originals?

The Witness: No, I didn't.

Mr. Palmer: The originals are in this group. Your Honor suggested we had better have a summary made.

(Testimony of J. R. Tobin.)

Mr. Sokol: Yes.

Trial Examiner Whittemore: Well, we will take a three minute recess at this time.

(A short recess was had.)

Trial Examiner Whittemore: On the record.

Mr. Palmer: May I have these marked Respondent's Exhibits 8A to 8L, inclusive?

(Thereupon, the documents referred to were marked as Respondent's Exhibits 8A to 8L, inclusive, for identification.)

Now, with your stipulation, we will offer them as Respondent's Exhibits 8A to 8L inclusive, as a summary of the records of the classified department to production of the four employees.

Mr. Sokol: No objection, subject to corrections.

Trial Examiner Whittemore: They may be received. [600]

(Thereupon, the documents heretofore marked for identification as Respondent's Exhibits 8A to 8L inclusive, were received in evidence.)

Q. (By Mr. Palmer) Mr. Tobin, you personally have made some computations from these records Respondent's Exhibits 8A to 8L, inclusive?

A. Yes.

Mr. Sokol: May I be off the record a minute?

(Discussion off the record.)

Trial Examiner Whittemore: On the record.

(Testimony of J. R. Tobin.)

Mr. Palmer: Mark these Respondent's Exhibits 9A and 9B for identification.

(Thereupon, the documents referred to were marked as Respondent's Exhibits 9A to 9B, for identification.)

RESPONDENT'S EXHIBIT 9-A

LUGOFF AVERAGE WEEKLY EARNINGS

Wk ending 7/6/39 to wk ending 3/28/40

Earned \$813.10 divided by 39 wks=\$20.85 average

Wk ending 1/4/40 to wk ending 3/28/40

Earned \$256.37 divided by 13 wks=\$19.72 average

Wk ending 7/6/39 to wk ending 12/28/39

Earned \$556.73 divided by 26 wks=\$21.41 average

LUGOFF AVERAGE WEEKLY LINAGE

Wk ending 7/6/39 to wk ending 3/28/40

24,166 lines divided by 39 wks=620 lines per wk av

Wk ending 1/4/40 to wk ending 3/28/40

7,370 lines divided by 13 wks=567 lines per wk av

Wk ending 7/6/39 to wk ending 12/28/39

16,796 lines divided by 26 wks=646 lines per wk

RESPONDENT'S EXHIBIT 9-B

SELLERS AVERAGE WEEKLY EARNINGS

Wk ending 4/11/40 to wk ending 11/7/40

Earned \$604.36 divided by 28 wks=\$21.58 average

SELLERS AVERAGE WEEKLY LINAGE

Wk ending 4/11/40 to 10/31/40

18,602 lines divided by 30 wks=620 lines per wk avg

(Testimony of J. R. Tobin.)

Mr. Palmer: Mr. Tobin, before you are documents marked Respondent's Exhibits 9A and B for identification. Will you state what those documents are, please? Do they bear notations that you have compiled from documents marked Respondent's Exhibits 8A to 8L now before you? A. They do.

Q. When did the \$24 a week guarantee for outside salesmen go into effect, Mr. Tobin?

A. By the—July 1st, 1939.

Q. In the period from July 1, 1939, to March 28, 1940, [601] the date of the severance of Mr. Lugoff's connection with the Citizen News, what was the average earning during that period of Mr. Lugoff?

Mr. Sokol: Mr. Examiner, I am not objecting—

Q. (By Mr. Palmer) According to your computations?

Mr. Sokol: I am not objecting because I realize that this will aid the Examiner in coming to his own conclusions from the records.

The Witness: The average amount of money that he earned each week was \$20.85.

Q. (By Mr. Palmer) He was paid under the guarantee each week, \$24?

A. At least \$24, yes.

Q. In that same period, to-wit, from the 1st of January, 1940, which would be the week ending January 4, 1940, to the week ending March 28,

(Testimony of J. R. Tobin.)

1940, according to your computations, that period was how many weeks? A. 13 Weeks.

Q. And what was the average earnings of Mr. Lugoff weekly during that period?

A. \$19.72.

Q. And for the period of the week ending July 6, 1939, to the week ending December 28, 1939, that was how many weeks? A. 26 weeks.

Q. What were the average earnings of Mr. Lugoff during that [602] period? A. \$21.41.

Q. Now, as to lineage, taking the period for the week ending July 6, 1939, to and including the week ending March 28, 1940, a total of 39 weeks, is it not? A. That is correct.

Q. What was the average production of Mr. Lugoff in lineage? A. 620 lines per week.

Q. For the 13 weeks between the week ending January 4, 1940 to and including the week ending March 28, 1940, what was Mr. Lugoff's average production in lineage? A. 567 lines per week.

Q. For the period from the week ending July 6, 1939 to and including the week ending December 28, 1939, what was Mr. Lugoff's weekly average in lineage? A. 646 lines.

Q. Did you check the ads produced by Mr. Lugoff for the last week of his employment to-wit, the week ending March 28, 1940, as to how many were T.F. ads and how many were not?

Mr. Sokol: What does T.F. mean?

(Testimony of J. R. Tobin.)

Mr. Palmer: I will get to that.

The Witness: Yes, I did.

Q. (By Mr. Palmer) What is a T.F. ad?

A. A T.F. ad is an advertisement that runs until it is [603] discontinued.

Q. What were the total number of ads that Mr. Lugoff had during the last week?

A. On the last day that he worked——

Q. On the last day?

A. He had 25 ads in the paper.

Q. How many of those 25 were T.F. ads?

A. 11. I might say they were T.F. or thirty time ads.

Q. The 11 were either T.F. or thirty time ads?

A. Or thirty time ads.

Q. Who took Mr. Lugoff's place after he left?

A. Sellers, Wally Sellers.

Q. Had Wally Sellers been previously employed by the Citizen-News? A. Yes, he had.

Q. In what capacity?

A. Well, I believe he was a messenger boy or copy boy.

Q. To your knowledge, had he had any previous experience in selling? A. No.

Q. Have you made computations as to his earnings in the period between April 11, 1940, for the week ending April 11, 1940, to and including the week ending November 7, 1940? A. Yes.

Mr. Sokol: I object to anything along that line on [604] several grounds. One is that, we do not

(Testimony of J. R. Tobin.)

have the records of production of Mr. Sellers; two, that it is immaterial what Mr. Sellers produced: The question here is whether or not Lugoff was discharged for union activities. Even if the company had hired a genius in his place to produce, that would be no defense.

Mr. Palmer: But our defense is, Mr. Sokol, that we did not discharge him for union activities.

Mr. Sokol: That is the sole matter to be met.

Mr. Palmer: That is all to aid the Court.

Mr. Sokol: There has been no foundation laid.

Mr. Sargent: Assuming that a foundation is laid, your Honor, that it can be shown the conditions, under which Mr. Sellers was operating were the same as the ones under which Mr. Lugoff operated, I think it is admissible.

Trial Examiner Whittemore: I am more concerned as to a comparison with the others who were operating at the same time under about the same conditions up to the time of his discharge.

Mr. Palmer: We have some figures on those which we will offer too, your Honor.

Trial Examiner Whittemore: Does this man Sellers have exactly the same territory?

Mr. Palmer: Well, I will lay some foundation.

Trial Examiner Whittemore: I suggest you do that. [605]

Q. (By Mr. Palmer) Mr. Tobin, in what territory has Mr. Sellers been working?

(Testimony of J. R. Tobin.)

A. He had the territory from Highland Avenue east to Western Avenue and north and south, south to Beverly Boulevard, the same territory that Lugoff had.

Q. That is the same territory exactly as Mr. Lugoff had? A. Exactly.

Q. Then I will ask you this question: During the period designated what were the average weekly earnings of Mr. Sellers?

Mr. Sokol: Just a moment. Before you answer may I take the witness? I object to the question as no foundation laid and I would like to ascertain if he is qualified.

Trial Examiner Whittemore: Do you have any objection to his asking a few questions?

Mr. Palmer: The purpose is what?

Mr. Sokol: To determine whether or not the proper foundation has been laid.

Mr. Palmer: In what respect?

Mr. Sokol: Well, I will ask the witness a few questions.

Mr. Palmer: You tell me in what respect and I will see.

Mr. Sokol: I want to see all about the accounts, whether he has covered the same matter.

Mr. Palmer: All right. Go ahead, Mr. Sokol.

Mr. Sokol: What accounts did you give Mr. Sellers? [606]

The Witness: Well, you want me to name the accounts you mean?

(Testimony of J. R. Tobin.)

Mr. Sokol: Yes.

The Witness: I can't do that.

Mr. Sokol: You have a list of the accounts that you gave him?

The Witness: Not with me, no.

Mr. Sokol: Do you know what area Mr. Lugoff was concentrating on in his territory?

The Witness: What area in his territory?

Mr. Sokol: Yes.

The Witness: He was supposed to be concentrating on the whole territory.

Mr. Sokol: Didn't he have other accounts, special accounts outside the territory?

The Witness: He may have had a few outside, yes.

Mr. Sokol: How about Mr. Sellers, did he have any other accounts?

The Witness: What do you mean by other accounts; outside his territory?

Mr. Sokol: Yes.

The Witness: He may have a very few, yes.

Mr. Sokol: And you gave him those accounts, didn't you, outside of his territory?

The Witness: No. [607]

Mr. Sokol: How did he get the accounts?

The Witness: Why, at times there are calls that come into the office for an advertising man to call on them.

Mr. Sokol: And you turned them over to Sellers?

The Witness: And sometimes I turned them

(Testimony of J. R. Tobin.)

over to people in the territory other than their own. I might add those are all small transient accounts, "Room for rent" ad or something.

Mr. Sokol: And sometimes a big account comes in, doesn't it, occasionally?

The Witness: No, never.

Mr. Sokol: Well, I can take the witness on cross-examination.

Q. (By Mr. Palmer) What do your computations show as to the average earnings of Mr. Sellers?

Mr. Sokol: I still object on the ground that anything that Mr. Sellers earned is not pertinent.

Trial Examiner Whittemore: Well, I am going to sustain the objection on those grounds. Now, you have the records here and they are available for examination.

Mr. Palmer: Sellers' records are here.

Mr. Sokol: They are not in this compilation.

Mr. Palmer: Yes, they are.

Mr. Sokol: You didn't give that to me.

Mr. Palmer: May it be stipulated that the summary of the record of W. Sellers may be marked as Respondent's Exhibit [608] for identification 8M?

Mr. Sokol: No objection.

(Thereupon, the document referred to was marked as Respondent's Exhibit No. 8M, for identification.)

Mr. Palmer: May that be received?

(Testimony of J. R. Tobin.)

Trial Examiner Whittemore: It may be received under the stipulation, yes.

(Thereupon, the document heretofore marked for identification as Respondent's Exhibit No. 8M, was received in evidence.

Mr. Sokol: There is one other question here I would like to ask.

Mr. Palmer: All right.

Mr. Sokol: Sellers took over the territory as your leading man when he was on vacation, didn't he?

The Witness: What year?

Mr. Sokol: Reid.

The Witness: What year are you talking about?

Mr. Sokol: Since he has been employed, 1940.

The Witness: No. He may have taken over part of it. In fact, he did take over part of it.

Mr. Sokol: In other words, these analyses will not aid us now, I see, Mr. Examiner. This man Sellers from the original records took over territory of some of the other people and gained all that advertising. [609]

Trial Examiner Whittemore: Well, that is a matter that can be brought out on cross-examination. It is a question of weight to be given to the evidence. As I understand it, the reason you are offering this is to show that the man who took over Lugoff's territory did as well or better than Lugoff did.

Mr. Palmer: That is right.

(Testimony of J. R. Tobin.)

Trial Examiner Whittemore: I think that is relevant. You can cross-examine him on it. You may proceed.

The Witness: \$21.58.

By Mr. Palmer:

Q. During that period what was the average weekly production in lines?

A. 620 lines, per week.

Q. What was the basis for determining the earnings? When we speak of the earnings of Mr. Lugoff and Mr. Sellers, what is meant by that?

A. Well, they were paid on what we call a salary and commission basis. The base salary was \$10 a week and they were paid 11½ cents on every line that they ran and 1 cent on every ad.

Q. And the earnings, regarding which you have testified to, refer to computations made on that basis of compensation? A. That is right.

Q. Did you have some figures prepared as to the production, the comparative figures for the years 1937, 1938, and 1939 for [610] the production of Reid, Allen, McKellar and Lugoff?

A. Yes.

Mr. Palmer: May this be marked?

Mr. Sokol: Do you have the original records back to '37 here?

The Witness: No.

Q. (By Mr. Palmer) Where are your original records? A. In the office.

(Testimony of J. R. Tobin.)

Trial Examiner Whittemore: Well, I think we should go off the record at this point.

(Discussion off the record.)

Trial Examiner Whittemore: On the record.

Mr. Palmer: May this be marked Respondent's Exhibit 10 for identification?

(Thereupon, the document referred to was marked Respondent's Exhibit No. 10, for identification.)

Q. (By Mr. Palmer) I ask you, Mr. Tobin, what the document marked Respondent's Exhibit 10 for identification represents?

A. Those are the lineage figures for Reid, Allen, McKellar and Lugoff for the year 1937.

Mr. Sokol: It is very remote.

Mr. Palmer: I will show my purpose in just one minute. [611]

Mr. Sokol: I am objecting on the ground it is too remote.

Mr. Palmer: May this be marked Respondent's Exhibit 11 for identification?

(Thereupon, the document referred to was marked as Respondent's Exhibit No. 11 for identification.)

Mr. Sokol: Your point is because he had in '37 a large lineage that it has gone down in recent years——

Mr. Palmer: Here is our offer of proof: That the figures will reveal that 1937 was a good year and Mr. Lugoff's production in 1939 compared to

(Testimony of J. R. Tobin.)

'37 was off a greater percentage than the production of any one of the other three solicitors working with him at the same time.

Mr. Sokol: There are reasons for that.

Mr. Palmer: Well, maybe Mr. Lugoff can explain it. I can't.

I would like to have this marked Respondent's 12 for identification, please.

(Thereupon, the document referred to was marked as Respondent's Exhibit No. 12 for identification.)

Q. (By Mr. Palmer) Showing you our 11, and I ask you what that means.

A. Well, that is the figures for Reid, Allen, McKellar and Lugoff, their lineage figures for the years 1937, '38 and '39. [612]

Q. And showing——

A. Showing a percentage of gain or loss for each person; that is a comparison of gain or loss between the years 1937 as compared to 1939.

Q. Showing you Respondent's Exhibit 12 for identification, I will ask you what that document is.

A. That is the total classified lineage figures of the newspaper for the years 1937, 1938, and 1939, with the percentage of gain all out between the years—between the year 1937 and the year 1939.

Mr. Sokol: What is that, a 16 percent loss?

The Witness: I didn't compile the figures myself.

Mr. Sokol: Didn't you check that?

(Testimony of J. R. Tobin.)

The Witness: That was compiled by Mr. Ringwald, but this is his handwriting.

Mr. Sokol: May we go off the record?

Trial Examiner Whittemore: Off the record.

(Discussion off the record.)

Trial Examiner Whittemore: On the record. You may be excused temporarily.

(Witness temporarily excused.)

Mr. Sokol: I would want the figures for '35 if you are going back to '37 and I can show that the figures were altogether different in '35 and '36. If you are going to go back it is only fair. I suggest that you withhold this [613] until tomorrow and we will have the other figures at the same time.

Mr. Palmer: That is part of your case and you can subpoena the records.

Mr. Sargent: If he wants to put it in it is all right.

Mr. Sokol: I want the figures down here.

Mr. Palmer: That has nothing to do with our case.

Mr. Sokol: Will you produce them?

Mr. Palmer: If we have them.

Mr. Sokol: A compilation.

Mr. Palmer: And if we have them and the Examiner wants us to produce them, we certainly shall produce them.

Trial Examiner Whittemore: Well, suppose you make a note of it and see if you could have them. This witness who did the others can probably take them back a couple of years.

HARRY R. RINGWALD,

a witness called by and on behalf of the Respondent,
being first duly sworn, was examined and testified
as follows:

Direct Examination

Q. (By Mr. Palmer) What is your name, please?

A. Harry R. Ringwald.

Q. Where do you reside, Mr. Ringwald?

A. 1129 North Poinsettia Place, Hollywood.

Q. Where do you work?

A. Citizen-News Company. [614]

Q. What is your position?

A. Auditor, treasurer.

Q. And did you make some computations at the
request of Mr. Tobin? A. I did.

Q. Referring to Respondent's Exhibit 11 for
identification and Respondent's 12 for identification,
are those computations made by you?

A. Yes, they are.

Q. As a summary of the figures of records kept
in the Citizen-News office? A. Yes.

Mr. Sokol: May I ask the witness a question?

Mr. Palmer: Yes.

Mr. Sokol: Did you look at the 1936 figures?

The Witness: No, I did not.

Mr. Sokol: Who told you just to check back
to '37?

The Witness: Mr. Tobin asked me to show the
1937, '38 and '39 figures.

Mr. Sokol: Did he explain why he only wanted
1937?

(Testimony of Harry R. Ringwald.)

The Witness: No, he did not.

Mr. Palmer: You can bring that out on cross-examination. You have got plenty of time.

Mr. Sokol: If you want to be technical I want the original records. The point is, Mr. Examiner, this is an [615] important phase of the case and I want to see the original records.

Trial Examiner Whittemore: Well, why do you come out of a clear sky and ask for the original records when a minute before you were asking him what year he went back to. I don't see where the two have any connection.

Mr. Sokol: That is true enough. Let me inquire: Are the original records available?

The Witness: I believe they are.

Mr. Sokol: Are they available for 1936?

The Witness: Yes. Mr. Tobin says they are.

Trial Examiner Whittemore: It is my understanding that on these you were going to bring in the original records and you had no objection to their being admitted to such a check as you might wish to make against the original records, and so I don't see any reason why——

Mr. Sokol: Well, it will save time if the witness will make a check of 1935 and 1936 and put those figures on these summaries.

Mr. Palmer: It will take only about two minutes to ask the witness these questions, as far as saving time is concerned.

(Testimony of Harry R. Ringwald.)

Trial Examiner Whittemore: The respondent has admitted that it has the records and that they will be made available. Now, whether they shall be put on this sheet or another one, [616] I don't see is important.

Q. (By Mr. Palmer) What was the comparison of the total classified lineage for 1939 with that of 1937?

A. It shows a decrease of 16.1 percent.

Q. That is, the lineage for '39, the total was off compared to '37, 16.1 percent?

A. That is correct.

Q. The lineage of Mr. Reid in '39 compared with '37 was what?

A. A decrease of 6.9 percent.

Q. The lineage of Mr. Allen for '39 compared with '37 was what?

A. A decrease of 30 percent.

Q. Of what? A. 30 percent.

Q. The lineage of Miss McKellar for 1939 as compared with 1937 was what? A. 10.2 percent.

Q. What? A. 10.2 percent.

Q. Was that a decrease or increase?

A. That is an increase.

Q. The lineage of Mr. Lugoff for 1939 as compared to 1937 was what?

A. A decrease of 35.7 percent.

Mr. Palmer: That is all of this witness. [617]

Mr. Sokol: May I take the witness?

Mr. Palmer: Yes.

(Testimony of Harry R. Ringwald.)

Cross Examination

Q. (By Mr. Sokol) When did you make this check of these records?

A. I compiled them today.

Q. Today. Did Mr. Palmer or any of the management ever prior to this time ask you to make an analysis of the production records of these employees in the classified department?

A. I think not, I don't recall.

Q. They never did, did they?

A. Not me.

Q. At the time of the discharge of Mr. Lugoff, March 30, 1940, approximately that date, did the management at any time prior to March 30, 1940 ask you to make a check of these production records to see where Mr. Lugoff stood?

A. I don't recall.

Q. Well, did you or didn't you? Did you ever make such a check prior to March 30, 1940?

A. Not that I recall of.

Q. This is the very first time since this hearing began that you started to make a check on these records; is that right?

A. I make a good many records and don't recall now whether I was asked for these lineage records, those years or not, I [618] say. I might have. I make a good many records.

Q. Did you ever make a lineage report on Mr. Lugoff? A. No, I think not.

(Testimony of Harry R. Ringwald.)

Q. And you can have those other records for '36, '35 and '36 in tomorrow? A. Yes.

Mr. Sokol: That is all right. Thank you very much.

Mr. Palmer: So he may understand what you want, you want the original records for '35——

Mr. Sokol: I would like to have the same summary.

Mr. Palmer: You want Mr. Ringwald to make the summary?

Mr. Sokol: Yes.

Mr. Palmer: Then I can't agree to have it in by 9:30 in the morning.

Mr. Sokol: Well, whenever it is convenient.

Mr. Palmer: All right.

Trial Examiner Whittemore: Do you want the original records that you demanded?

Mr. Sokol: Yes, I want the original records brought down with the summary.

Mr. Palmer: Will you return to the stand, Mr. Tobin?

J. R. TOBIN,

a witness called by and on behalf of the Respondent, having been previously duly sworn, was examined and testified further as follows: [619]

Direct Examination
(Continued)

Mr. Sokol: I think we can agree that '37 was an abnormal year.

Mr. Sargent: I will enter into no such stipulation.

Mr. Palmer: We will stipulate that '37 was a very good year. Wasn't it one of the best classified years we ever had?

The Witness: Yes, I can state that our gain in lineage in 1937 was 1.2 or 3, I think over '36; '36 and '37 were practically the same.

Mr. Palmer: We will offer our 12, our 11 and our 10.

Trial Examiner Whittemore: You have no objection to these subject to your chacking against the original records?

Mr. Sokol: That is right.

Trial Examiner Whittemore: They are received.

(Thereupon, the documents heretofore marked for identification as Respondent's Exhibits 10, 11 and 12, were received in evidence.)

(Testimony of J. R. Tobin.)

RESPONDENT'S EXHIBIT 10

LINAGE

	Reed	Allen	McKeller	Lugoff
12/30/37	1891	351	280	1155
12/23/37	1759	751	477	1124
	1743	724	669	1146
	1751	714	810	1139
	1915	566	357	1135
	2807	584	651	1198
	1642	650	478	878
	1706	861	754	848
	1843	906	538	895
	1734	1029	410	867
	1782	721	684	818
	1790	741	560	927
	1653	553	450	1034
	1746	600	696	1130
	1951	546	479	924
	1966	530	352	845
	2147	437	424	885
	1590	522	645	1334
	184	625	832	2029
	810	680	1038	1715
	2075	589	417	894
	1916	678	390	914
	2136	1175	300	893
	2118	117	355	847
	1995	172	941	981
	1860	565	371	878
	2539	982	506	434
	1959	780	655	816
	2626	647	466	1057
	1679	603	369	1007
	1778	782	425	1000
	1641	741	573	1010
	1954	863	925	936
	2114	715	413	1110
	1731	941	691	1193

(Testimony of J. R. Tobin.)

	Reed	Allen	McKeller	Lugoff
	2389	750	406	1111
	2312	863	450	992
	2536	822	643	1249
	1877	662	610	976
	2147	744	406	944
	2506	539	544	1020
	2473	556	530	959
	2594	587	498	1023
	2140	667	501	1077
	1944	470	531	1277
	2082	556	633	1166
	2124	464	528	1228
	1898	582	573	1181
	2381	688	603	1370
	2780	547	638	1249
	2848	473	835	1070
	2381	289	687	1029
	<hr/> 103,943	<hr/> 33,700	<hr/> 28,987	<hr/> 54,917

Linage figures for year 1937

RESPONDENT'S EXHIBIT 11

LUGOFF

	<u>1937</u>	<u>1938</u>	<u>1939</u>	<u>% on 1937</u>
Reed	103,943	80,651	96,721	6.9—
Allen	33,700	26,754	23,603	30. —
McKellar	28,987	28,797	31,955	10.2+
Lugoff	54,917	38,167	35,317	35.7—

RESPONDENT'S EXHIBIT 12

TOTAL CLASS LINAGE

<u>Year</u>	<u>1937</u>	<u>1938</u>	<u>1939</u>	<u>on 1937</u>
	709,766	609,135	595,304	16.1%—

(Testimony of J. R. Tobin.)

Q. (By Mr. Palmer) At the time the \$24 a week guarantee was put into effect for salesmen, Mr. Tobin, did you issue any notice at that time to the salesmen?

A. Well, there was a typewritten notice, yes, that was posted on our bulletin board.

Mr. Palmer: May this be marked Respondent's Exhibit 13?

(Thereupon, the document referred to was marked as Respondent's Exhibit No. 13 for identification.) [620]

Q. (By Mr. Palmer) I show you document Respondent's Exhibit 13 for identification and will ask you if you can identify that, Mr. Tobin?

A. Yes, that is a notice that was posted at the time the guarantee of \$24 went into effect.

Q. That is the notice or a copy of the notice?

A. A copy of the notice, yes.

Mr. Palmer: I offer that as Respondent's Exhibit 13.

Mr. Sokol: No objection.

Trial Examiner Whittemore: It is received.

(Thereupon, the document heretofore marked for identification as Respondent's Exhibit No. 13, was received in evidence.)

(Testimony of J. R. Tobin.)

RESPONDENT'S EXHIBIT 13

TO: OUTSIDE CLASSIFIED SALESMEN

Following is a change of policy effective July 1, 1939, for one year from date:—

The management fixes a minimum guarantee of \$24.00 per week for experienced outside classified salespeople, and \$18.00 per classified beginners with less than one year of experience, effective July 1, 1939, with the following points clearly understood.

That the management shall at all times have the regulation of the number of employees in the department, with rights to employ or dismiss with severance pay up to 26 weeks pay, depending on length of service.

That management shall have sole right of judgment of the qualification of employees for the filling of places in the department.

That management shall have sole right in the assignment of employees to various territories in the classified department.

J. R. TOBIN,

Classified Manager.

July 1, 1939.

Q. (By Mr. Palmer) Mr. Tobin, did it at any time come to your attention that Mr. Lugoff was circulating a petition among the classified employees to have the Guild appointed as bargaining agent?

(Testimony of J. R. Tobin.)

A. I had heard that he was doing such.

Q. Who told you?

A. I think it was just one of those general rumors. I can't remember of any particular person telling me about it.

Q. Did it at any time come to your attention that he was circulating a copy of a contract?

A. I don't believe so.

Q. Did it at any time come to your attention that he was [621] circulating a second petition?

A. No.

Q. You never heard of any more than one petition? A. No.

Q. Was the rate of compensation for Miss McKellar and Mr. Allen the same as the rate for Mr. Lugoff? A. No, it wasn't.

Q. Can you explain the difference, the different basis for computation? What did Miss McKellar get as a rate of compensation for her production?

A. He got a salary of \$10 a week and 2 cents a line and 1 cent an ad.

Q. And what rate of compensation did Mr. Allen get?

A. He got a salary of \$12.50 a week and 2 cents a line and 1 cent an ad.

Q. Why was there difference in the basis of determining their compensation?

A. Well, the rate of commission per line was determined in their respective territories, the poten-

(Testimony of J. R. Tobin.)

tial advertising that there was in each of those territories for our particular newspaper; and Lugoff's territory being the best, of course his commission per line would be less because it was—there was much more potential advertising in that territory.

Q. You considered Mr. Lugoff's territory as having greater possibilities for production of ads for the Citizen- [622] News than the territory of Miss McKellar and that of Mr. Allen?

A. That is right.

Q. Why did you consider one territory better than the other?

Mr. Sokol: Now, I have allowed some opinion evidence to go in but I want to qualify him as an expert. May I take the witness? I want to show what knowledge he had of the territory.

Mr. Palmer: I think he is qualified with 16½ years of experience in classified.

Trial Examiner Whittemore: You will have an opportunity to cross-examine him.

Mr. Palmer: You may answer.

A. Oh, what was the question?

Q. Why did you consider one territory as having greater possibilities for production than other territories?

A. Well, Lugoff's territory was—there were more potential professional advertisers in that territory that would have a good reason for advertising in the Citizen-News than in either one of the other two territories and that fact was born out each week

(Testimony of J. R. Tobin.)

by the number of leads that he would get from the other papers in his territory compared to the leads that Allen, for instance, received in his Hollywood territory.

Q. There were more leads in Mr. Lugoff's territory than there were in Allen's territory? [623]

A. Yes: that is in the Hollywood territory, not in the downtown.

Q. When Allen got downtown was he or was he not in stronger competition with the downtown papers?

A. Very much so.

Mr. Sokol: I object to that.

Trial Examiner Whittemore: I didn't get the question. Will you read the question.

(Question read by the reporter.)

Mr. Sokol: I object to that, Mr. Examiner.

Trial Examiner Whittemore: I will sustain the objection.

Mr. Sargent: Because it is so obvious, your Honor?

Trial Examiner Whittemore: Well, until you go into what territory various papers covered, I will sustain the objection.

Q. (By Mr. Palmer) Did competition with other papers, Mr. Tobin, have any relation to the productive possibilities of the different territories for ads for the Citizen-News?

A. Yes, it did.

Q. What competition was that?

Mr. Sokol: I object to that as there has been no foundation laid.

(Testimony of J. R. Tobin.)

Trial Examiner Whittemore: That is what he is apparently laying.

The Witness: Would you repeat the question?

[624]

(Question read by the reporter.)

Q. (By Mr. Palmer) What was the competition of other newspapers? What other newspapers were there, the Examiner wants to know.

A. Well, there was the Los Angeles Examiner, the Los Angeles Times.

Q. Any others?

A. And the Herald-Express and the Daily News.

Q. In what respect did they affect advertising possibilities for the Citizen-News?

A. The further away you got from our circulation territory the harder it would be to sell an advertiser downtown, for instance.

Q. What is downtown Los Angeles and what is Hollywood, as to territory? What do we mean by downtown Los Angeles?

A. Well, might I say I would consider the Hollywood territory, as far as classified advertising is concerned?

Q. Well, I asked first what do we mean by downtown Los Angeles?

A. Well, downtown Los Angeles, in location, you mean?

Q. Yes. When you say downtown Los Angeles, what do you mean?

(Testimony of J. R. Tobin.)

A. Well, I would say that area from First to Fourteenth Street and from Main Street to Figueroa.

Q. Well, you mean the central business district of Los [625] Angeles? A. Yes.

Q. What do you mean by the Hollywood area?

A. Well, the Hollywood area would be from Virgil Avenue, south to Beverly Boulevard and Beverly Hills on the west.

Q. The central part of Hollywood is about how many miles from downtown Los Angeles?

A. 7½.

Q. Hollywood is a part of the City of Los Angeles? A. Yes.

Q. In what section of the City of Los Angeles are the best classified possibilities for the Hollywood Citizen-News?

Mr. Sokol: The records would show that.

Trial Examiner Whittemore: Well, from his experience.

Mr. Sokol: All right.

Trial Examiner Whittemore: As a classified advertising manager I think he is qualified.

Q. (By Mr. Palmer) In what section of the City of Los Angeles are the best classified advertising possibilities for the Hollywood Citizen-News?

A. In the Hollywood district.

Q. That is central Hollywood?

A. Yes, the central Hollywood district.

(Testimony of J. R. Tobin.)

Q. That was the district Mr. Lugoff had?

A. Yes. [626]

Mr. Palmer: That is all.

Q. (By Mr. Sokol) Then why did you have two people in downtown Los Angeles, Allen and McKellar.

A. I told you one was there on automobiles alone and Los Angeles is quite a bit larger than Hollywood.

Q. Well, they are both downtown in Los Angeles?
A. Yes.

Q. And that is where you get more business than you get from Lugoff's territory, isn't that right?

Trial Examiner Whittemore: Why do you have two people downtown?

The Witness: Why?

Q. (By Mr. Sokol) They are both producing, aren't they?
A. Yes.

Q. You only have one man in Lugoff's territory, isn't that right?
A. Yes.

Q. While I am on the subject, has Miss McKellar ever made her guarantee?

A. Oh, yes, many times.

Q. How many times has she failed to make her guarantee?
A. A number of times.

Q. Have you fired her on account of it?

A. No.

Q. How about Allen, has he always made his guarantee? [627]
A. No.

(Testimony of J. R. Tobin.)

Q. He has failed to make his guarantee scores of times, hasn't he?

A. Oh, I wouldn't say scores of times.

Q. You wouldn't? A. No.

Q. How many times would you say?

A. The records are there.

Q. How about this new man Sellers, has he made his guarantee? A. Some of the time.

Q. Why don't you fire him when he doesn't make his guarantee? Didn't Mr. Palmer tell you that he was contending that Lugoff agreed that he would be fired if he didn't make his guarantee?

A. No.

Q. He didn't?

Mr. Palmer: I object to that is improper cross-examination. There is no testimony about Mr. Palmer telling him anything.

Trial Examiner Whittemore: Well, I will permit this answer.

Q. (By Mr. Sokol) Did Mr. Young ever tell you to fire Lugoff because he wouldn't make his guarantee? A. No.

Q. Have you ever fired anyone who didn't make their guarantee? [628] A. Yes.

Q. Who?

A. No, I didn't personally. I will take that back.

Trial Examiner Whittemore: Is your cross-examination going to be very extensive. If it is it is 4:30.

Mr. Sokol: I can continue it in the morning.

(Testimony of J. R. Tobin.)

Trial Examiner Whittemore: We will recess then until tomorrow morning at 9:30.

(Whereupon, at 4:30 o'clock p. m. the hearing in the above-entitled matter was adjourned until 9:30 o'clock a. m., Tuesday, November 19, 1940.) [629]

PROCEEDINGS

Trial Examiner Whittemore: The hearing will please come to order. Will you resume the stand, Mr. Tobin?

J. R. TOBIN,

a witness called by and on behalf of the respondent, having been previously sworn, resumed the stand and testified further as follows:

Cross Examination

Q. (By Mr. Sokol) Have you discussed the case with anyone since you were on the stand last night?

A. No, not to any great extent.

Q. Well, with whom did you discuss it?

A. In fact, I haven't discussed it at all.

Q. Now, let's get that straight. You said "No" and then "Not to any great extent." What do you mean?

A. Well, I haven't discussed it with anyone.

Q. Will you explain to the Examiner then why you said "not to any great extent"?

(Testimony of J. R. Tobin.)

A. Well, I was running over in my own mind whether I had and I came to the conclusion I had not.

Q. But you did talk to somebody, is that it?

A. No.

Mr. Sargent: I will stipulate he hasn't talked to me.

Mr. Palmer: I will stipulate he hasn't talked to me, if I am the one you have reference to. [631]

Q. (By Mr. Sokol) Now, Mr. Tobin, when was the first time you made any analysis of the production record of Mr. Lugoff?

A. In 1938. Well, there was an analysis made of his production record each week.

Q. You mean these original records that you have?

A. Yes.

Q. Or do you have something besides that?

A. No; no, that is all.

Q. Now, in 1938 you said you made an analysis?

A. Yes.

Q. What do you mean by that? Do you mean you just put down the figures as you have them in your records?

A. No. We went back over several months.

Q. How many months did you go back over?

A. Oh, I couldn't say offhand.

Q. Did you put that down in writing?

A. Not to be kept of record, no, just put down——

(Testimony of J. R. Tobin.)

Q. Did you put it in writing? A. Yes.

Q. Have you got the writing? A. No.

Q. What did you do with it?

A. Showed it to Lugoff and threw it away.

Q. That is all you did with it, showed it to Lugoff and [632] threw it away? A. Yes.

Q. When did you show it to Lugoff?

A. In the early part of 1938.

Q. In the early part of 1938?

A. Yes. I would say March or April, probably.

Q. And then that was the end of that matter?

A. No, that wasn't the end of it, by any means.

Q. Well, did you draw up another analysis after that time? A. Yes.

Q. What? A. Yes.

Q. When was the next time?

A. I believe that was in the first part of August '38.

Q. How many months did you go back at that time?

A. Back to the first of 1938.

Q. What did you do with the analysis?

A. Went over it with Lugoff again.

Q. Then what did you do with it?

A. Destroyed it.

Q. Before I go any further, I show you Respondent's Exhibits 3-A, B and C. When did you make those typewritten notations on 3-A?

A. The typewritten notations?

(Testimony of J. R. Tobin.)

Q. Yes, for instance, opposite this "Apt. House 1730 El [633] Cerrito Pl." you have got "no call made." When did you make that notation?

A. The latter part of August.

Q. What year? A. 1939.

Q. 1939? A. That's right.

Q. After you made that notation, did you show it to anyone? A. Yes.

Q. To whom? A. Mr. Young.

Q. Mr. Young. When?

A. In the latter part of August.

Q. 1939?

A. Let me get these dates correct.

Q. I think you had better go over them in your own mind. I will start over again.

A. No, that isn't necessary.

Q. When did you make the notations?

A. Probably around the 20th, 21st or 22nd of August.

Q. What year? A. 1939.

Q. Did you make any of those notations recently, within the last week? Any of these notations?

A. Yes, I have gone over some of them. [634]

Q. All right. Now, on Respondent's Exhibits 3-A, B and C show me the notations that you made the other day.

A. Well, I don't believe I could do that.

Q. Well, as a matter of fact, all of these fresh pencil notations—do you see them? They are pretty dark. They are the ones you made the other day,

(Testimony of J. R. Tobin.)

practically all of them? You made them within the past week, isn't that so?

A. No, that isn't so.

Q. Well, point out to the Examiner which ones you made within the last week on Respondent's Exhibits 3-A, B and C.

A. I don't believe I could do that, other than to tell you that some of those notations were made within the last week. I will admit that.

Q. Who told you to make them?

A. No one.

Q. What you did was to take these daily reports that Mr. Lugoff made, and went over them last week, and made these notations? A. No.

Q. What did you do? Will you tell the Examiner?

A. Some of those notations were made from those report sheets, yes.

Q. That was the first time you ever made the notations? A. No.

Q. Well, you said you made them last week.

[635]

A. I said some of them were made last week.

Q. Some of them? A. Yes.

Q. And you can't point out which ones were made last week? Showing Respondent's Exhibits 3-A, B and C to the witness.

Well, if you can t'do it, I will go on.

A. Here is one in particular. I distinctly remem-

(Testimony of J. R. Tobin.)

ber making it. This one here. This one here:
"Smith 5646 Hollywood Boulevard."

Q. "Smith 5646 Hollywood Boulevard"?

A. Yes.

Q. You distinctly remember making that within the last week? A. Yes.

Q. Why didn't you make that back in August, 1939? Have you any explanation?

A. I probably had marked something on there, but didn't have it complete, and I went over the balance of his report sheets to check up on it.

Q. Now, you have spoken to Mr. Palmer about this case, haven't you? A. Yes.

Q. He told you that he wanted you to go back over Lugoff's record, to see what you could pick out to show his inefficiency; isn't that right?

A. No, that isn't right. [636]

Q. What did he tell you to do about these records?

A. He didn't tell me anything. I suggested it to him.

Q. You suggested it to him?

A. That's right.

Q. What did you say?

A. That it might be a good idea to go back over these records and refresh our memories on how bad his production record was.

Q. I see. What did he say about it?

A. Well, he said, yes, that might be.

(Testimony of J. R. Tobin.)

Q. When was the first time you told Mr. Palmer that,—since his trial opened? A. Yes.

Q. Had you ever, prior to March 30, 1940, gone over Mr. Lugoff's record with Mr. Palmer?

A. No.

Q. Had you ever, prior to March 30th, 1940, gone over Mr. Lugoff's record with Mr. Palmer?

A. Yes, sir.

Q. When?

A. Oh, on several occasions.

Q. When was the first time?

A. In July of '38.

Q. In July of '38? A. Yes.

Q. Did you give him a written report on Lugoff's production [637] at that time, or an oral report?

A. I believe I showed him a written record.

Q. Then when was the next time?

A. In August of 1938.

Q. That was the last time, August of 1939?

A. No, it wasn't the last time.

Q. Well, when was the next time?

A. Well, ask me the questions. I can't—

Q. I asked you that. Pardon me.

A. The next time was, I believe, in April of '39.

Q. In April of 1939? A. That's right.

Q. And what kind of a report did you show Mr. Young this time?

A. Well, the same thing, a record of his production.

(Testimony of J. R. Tobin.)

Q. What did he say?

A. He said it looked pretty bad.

Q. Did he tell you to fire him? A. No.

Q. Did he say anything about that?

A. Yes. We talked over whether Lugoff should be fired or not, and I——

Q. And you decided not to fire him?

A. Yes.

Q. In April of 1939? Are you sure of that?

A. Yes. [638]

Q. Well, in April 1939 Mr. Lugoff's production was very good, wasn't it?

A. No, it wasn't.

Q. Wasn't it?

A. I hadn't been very good.

Q. Well, take a look at it. I will show you the original records for April, namely, April 6th, 714 lines. That is fairly good, isn't it?

A. Fairly good?

Q. Yes. You have told us that Sellers averages 620, and isn't 714 above the average? A. No.

Q. It is not? A. No.

Q. April 13th, 777 lines.

A. What about it?

Q. What about it? Isn't that above the average?

A. No, it isn't.

Q. What is above the average?

A. On his particular territory?

Q. Yes.

(Testimony of J. R. Tobin.)

A. Oh, I would say 1100 or 1200 lines a week.

Q. Will you point out in the record where—ever since the territory—where you can point out anywhere in that record where 1100 or 1200 lines are shown in that territory? [639]

A. Not in this record, no.

Q. Lugoff started that record from scratch, didn't he—the territory? He went out in the territory and built it up, didn't he?

A. Yes, I believe he did.

Q. All right. Did you ever go on the territory?

A. Yes.

Q. When?

A. What do you mean, did I go?

Q. Did you ever sell ads in that territory?

A. Yes.

Q. When?

A. Why from the time he was there right up to date.

Q. You have been selling ads in the same territory?

A. I have been helping him. I help people, call on ads myself.

Q. How many ads have you sold? Have you sold them in the last week or so? A. Yes, some.

Q. On Lugoff's territory.

A. Well, it isn't Lugoff's territory.

Q. Or Sellers' territory? A. Yes.

Q. Are you helping Sellers sell ads?

(Testimony of J. R. Tobin.)

A. At times I do, yes. [640]

Q. All right. Continuing in the same month, in April, 1939——

A. Of course, I helped Lugoff sell too.

Q. When? What ads did you help him sell?

A. Oh, any number of ads.

Q. Name one.

A. Smiley, a real estate concern; Thompson Estates.

Q. By "helping" what do you mean?

A. By getting it all set for Lugoff to go in and pick up the copy.

Q. Explain that.

A. Selling them on the idea that they should use the Citizen-News.

Q. You see the lineage of 881 for April 20, 1939——

A. Yes.

Q. —and 796 for April 27, 1939? A. Yes.

Q. That is correct, isn't it? A. Yes.

Q. All right. Now, in April 1939 you went over this matter with Mr. Young and you didn't decide to fire Mr. Lugoff?

A. We decided not to, yes.

Q. You decided not to. And what was your reason for not firing him at that time?

A. Well, we just wanted to give him another chance to make good. [641]

Q. Did you consult Mr. Palmer on that?

A. No.

(Testimony of J. R. Tobin.)

Q. Now, are the total times that you have talked to Mr. Young about Mr. Lugoff?

A. No. I talked to him again in August of '39.

Q. All right. What was it this time?

A. I showed Young a record of his production for the past couple of weeks, or probably the past several months.

Q. Don't you go over all the production records at the same time? Didn't you go over the production records of the other people, the other outside people, with Mr. Young at the same time?

A. Oh, those records were available to him.

Q. Well, did you go over the records with the other people at the same time?

A. Some of the other people, yes.

Q. What other people? A. Allen.

Q. All right. You were thinking about firing Allen too, weren't you? A. No.

Q. Why not? Wasn't his production low?

A. For his territory it wasn't particularly low, no.

Q. Hasn't Allen's production been low?

A. It all depends on what you mean by "production." [642]

Q. Lineage?

A. You see, there is—as I pointed out yesterday, there is quite a difference in the two respective territories.

Q. Will you answer my question: Was Allen's production or lineage low?

(Testimony of J. R. Tobin.)

A. Low for his territory?

Q. Yes.

A. No, it wasn't low for his territory.

Q. When wasn't it low?

A. At the date you are speaking of now, in August.

Q. August of 1939? A. Yes.

Q. Wasn't it low in April of 1939?

A. I don't recall, in April 1939.

Q. Well, it has been below average on occasion, hasn't it? A. On occasion?

Q. Yes. A. Yes.

Q. And those occasions have been for several months at a time?

A. No, I wouldn't say that.

Q. What was the longest period, that you know of? A. I wouldn't know offhand.

Q. All right. Now, in August 1939 what did you say to Mr. Young, and what did he say to you?
[643]

A. Well, we went over the record, his production record, and I pointed out to Mr. Young that it was very bad, and he let it go at that.

Q. What do you mean "he let it go"? What did he say? A. Well, he admitted it was, too.

Q. What about firing Lugoff?

A. Well——

Q. What was said?

A. At that time there wasn't anything said definitely about it.

(Testimony of J. R. Tobin.)

Q. Is it your understanding that Lugoff was fired because of low production? A. Yes.

Q. And that is the only reason? A. Yes.

Q. From whom did you get that understanding.

A. Myself.

Q. Yourself? A. Yes.

Q. Did you discuss it with anyone else?

A. Discussed it with Young.

Q. And is he the only one you discussed it with?

A. And with Lugoff.

Q. And that is the only reason in your mind as to why Lugoff was fired?

A. Well, of course, there were a lot of things that led up [644] to the fact that his production was low. The fact that he didn't work eight hours a day and that, undoubtedly, he laid down on the job.

Q. Was it your understanding, at any time, that his work was going to terminate at a specific period?

A. No.

Q. Now, did you fire Lugoff? A. No.

Q. Did you know that he was going to be fired—— A. No.

Q. On March 30, 1940?

A. No, I didn't.

Q. Well, now, you have been in the advertising field for some time, and I wonder if you could be helpful to the Examiner, and explain something about these accounts. Now, take an automobile account. When a salesman gets an automobile account,

(Testimony of J. R. Tobin.)

he gets considerably more than the average lineage out of an automobile account, isn't that right? In other words, they advertise a number of makes of cars in a single ad, isn't that right?

A. Well, to a certain extent, yes. An automobile account and a real estate account would be somewhat similar, as far as the size of the ads go.

Q. Lugoff's account——

A. (Continuing) And loan companies, too, their ads would [645] be quite large.

Q. Do you know of any loan company ad that Mr. Lugoff had in 1939?

A. I know several he should have. I don't know of any he did have, no.

Q. Now, Lugoff's ads were mainly confined to the small businesses that carried just a few lines; isn't that right?

A. By no means, no.

Q. What was his largest ad, that you know of?

A. Well, it was his own fault; yes, his ads were rather small, but the potential advertising in his territory was not.

Mr. Sokol: I move to strike that "it was his own fault", Mr. Examiner.

Trial Examiner Whittemore: That may be stricken.

Mr. Sargent: May we have an exception to that being stricken?

Q. (By Mr. Sokol) My question is this: Lugoff's ads were mainly small ads of a few lines; isn't that right?

(Testimony of J. R. Tobin.)

A. You are talking about 1939 now?

Q. Yes.

A. No, he had a number—he had several large Where to Dine ads.

Q. They were just occasional ads?

A. Once a week.

Q. But the regular ads just carried a few lines?

[646]

A. A large number of them did carry a few lines, that's correct.

Q. When you have automobile ads, it is a lot easier to build up a good lineage, isn't it? You just need a few automobile ads and you have a better lineage than a man who has a number of small individual ads; isn't that right?

A. That's right, granting——

Q. Now coming to Sellers, it is true, isn't it, that Mr. Sellers has profited a great deal from vacations since he has been on the job?

A. A great deal?

Q. Yes. A. It is not true.

Q. Let me show you an example.

A. Of course, it all depends on what you mean by "profited greatly."

Q. I will show you what I mean right from your own records. A. All right.

Q. Now, for instance, I will show you your original records. This is your original record, isn't it, for June 27, 1940? A. That's correct.

(Testimony of J. R. Tobin.)

Q. How many lines does Mr. Sellers have?

A. 1139.

Q. 1139 lines. Who was on vacation?

A. Reid. [647]

Q. And he is your top man? A. Right.

Q. Now, analyze that, and tell the Examiner if it isn't a fact that Mr. Sellers got the bulk of Mr. Reid's territory?

A. No. I can answer that very simply. He did not get the bulk.

Q. Isn't there a difference of over 500 lines between the average——

A. That doesn't represent the bulk of the territory.

Q. Analyze the figures of the other people. McKellar, there isn't any difference of 500 lines there?

A. Don't you see quite a difference here (indicating)?

Q. Oh, Tobin? A. Yes.

Q. Oh, I see. You got the bulk of it?

A. Yes.

Q. Then you and Sellers split up Reid's territory, is that it? A. Yes, that is true.

Q. Are you a good friend of Sellers?

A. Not near as good a friend of Sellers as I am of Lugoff's.

Mr. Sokol: That wasn't my question. I move to strike the answer.

Trial Examiner Whittemore: I didn't hear the answer. Will you read it, please?

(Testimony of J. R. Tobin.)

(The answer was read.) [648]

Mr. Sargent: I think that is an answer. He asked a wild question and got an answer that covered it.

Mr. Sokol: I asked him a direct question.

Trial Examiner Whittemore: Well, the answer may be stricken. You may answer the question.

Mr. Sokol: I will withdraw the question.

Q. (By Mr. Sokol) As a matter of fact, while we are on vacations, I will show you a number of other vacations here. A. Yes.

Q. Look at this (indicating).

A. Do you want to look at some of Mr. Lugoff's vacations?

Mr. Sokol: Mr. Examiner, will you instruct the witness to answer the questions?

Trial Examiner Whittemore: Just answer the questions.

The Witness: All right.

Q. (By Mr. Sokol) As a matter of fact, I intend to show that. I am not trying to make a partisan point of view on this. Now, June 20, 1940, Mr. Sellers profited again by the vacation of Mr. Reid; isn't that right? A. He profited.

Q. All right. June 13, 1940 he profited again by a vacation, didn't he? June 13, 1940 is the week ending at that time. This all refers to weeks ending the date that I am referring to. He profited again, didn't he?

(Testimony of J. R. Tobin.)

A. Well, he profited to the extent of probably 100 lines, [649] anyway.

Q. Well, he profited? A. Yes, that's true.

Q. Those are just a few examples?

A. That's all. There aren't any more.

Q. Now, look through them. I will show you some more.

A. I know there aren't any more.

Q. What about here (indicating)? Is that any vacation? Is that anything—when Allen took his vacation? A. No.

Q. Take that figure of June 13th, 1139 lines for Sellers. A. Yes.

Q. Can you state any time when you turned over Reid's territory, or part of it, to Mr. Lugoff? Specifically, I want the dates so I can check the records.

A. I would want to look at the record myself.

Q. Here is the record before you. I am showing the witness the analysis which was prepared by the respondent. It is Respondent's Exhibit 8, with the subdivisions noted.

(Handing documents to witness.)

A. Yes. I consider that (indicating) one.

Q. What date now?

A. I wouldn't want to commit myself on that until I found out what month Reid took his vacation in in 1939.

Q. Well, don't you know? [650]

A. No, I can't recall that offhand.

(Testimony of J. R. Tobin.)

Mr. Palmer: Why not let the witness look over the original records and find it?

Q. (By Mr. Sokol) If you want to thumb through the records, all right. I want to help you.

A. The latter part of July, 1939.

Q. However, July 9, 1939, I have that here, and there is no Reid vacation in that time. Here is the latter part of July. I don't see any vacation for Reid then.

A. This is 1940.

Q. Oh, pardon me.

(Handing further documents to witness.)

A. Yes, sir, there (indicating).

Q. I was looking at 1940. Well, in July you have a vacation there for Reid, in July 1939. Will you point out to the Examiner where Mr. Lugoff profited from Mr. Reid's vacation to the extent that you had Sellers profit?

A. Well, there is something very wrong here. These records don't coincide.

Q. You mean the records of the analysis don't coincide?

A. I was looking at the wrong thing here. This is the lines, here, I see.

Q. Yes.

A. Well, he apparently got some extra lines in the week ending July 27th, according to these figures. [651]

Q. But nothing compared to the figures that Sellers got out of Reid's vacation?

A. I wouldn't say "nothing".

(Testimony of J. R. Tobin.)

Q. Well, Sellers got over 1000 lines—1100 and some— isn't that right?

A. No, that isn't right. His total lineage for that week was 1100, but that wasn't all Reid's.

Q. I realize that, but the total lineage of Mr. Lugoff for that period——

A. Was less than Sellers, yes, was a little less.

Q. It was a little over 800 lines?

A. It was a little less.

Q. In other words, you didn't give the bulk of Reid's territory to Lugoff, they way you did to Sellers?

A. That isn't true. If you will look——

Mr. Palmer: The witness hasn't testified he gave the bulk of Reid's territory to Sellers, Mr. Sokol.

The Witness: If you will look at Reid's lineage here in 1939 and his lineage in '40, I think you will see that his lineage was a little more in 1940.

Q. (By Mr. Sokol) Well, at any rate he took his vacation in July, 1939? A. Yes.

Q. What are the best accounts in classified advertising? Automobile does stand pretty high? [652]

A. Yes, that is one.

Q. Is that number one?

A. No. Well, it is one of the best, Automobiles, and money to loan, and real estate, and rentals, apartment houses.

Q. Which is the very best of all, now?

A. Automobiles.

(Testimony of J. R. Tobin.)

Q. Did you assign any automobile advertisers to Mr. Lugoff? A. A few, yes.

Q. I am talking about 1939.

A. None in 1939.

Q. Aren't there some automobile advertisers in his territory? A. Yes.

Q. Well, who took them?

A. Who took them?

Q. Yes.

A. Well, I might say that in 1934 we carried practically no automobile advertising at all. That was before Lugoff worked at the Citizen-News, or rather, he wasn't working there at that time, and Reid and myself went out and sold, oh, 12 or 14 accounts, and got the classification started in the paper, and at that time I assigned all the automobile accounts to Reid to handle.

Q. And some of those accounts are in Lugoff's territory? A. Yes; yes.

Q. Take the matter of compensation. It is far more difficult [653] and you have to place a far greater number of calls, don't you, when you are working on Lugoff's assignments, than when you are working on assignments like McKellar has?

A. No, definitely not. He has the same, as I say, real estate companies, money to loan companies in his territory, that are potential advertisers and the number of them using the Los Angeles newspapers. Of course, the trouble with him was he didn't get out and call on them, so naturally not being——

Q. Did you assign any automobile advertisers to

(Testimony of J. R. Tobin.)

Mr. Sokol: Just a moment. I move to strike that out as not responsive.

Trial Examiner Whittemore: That may be stricken, the last statement.

Q. (By Mr. Sokol) Since you brought up the subject of newspapers, don't you think the Los Angeles Herald, the downtown paper, sells more copies in Lugoff's territory than your paper does? To your knowledge, isn't that so?

A. No, they don't, to my knowledge.

Q. The Herald doesn't circulate more in Hollywood than your own paper?

A. Not to my knowledge.

Q. Well, isn't it substantially or approximately equal to your paper? A. I don't believe so.

Mr. Palmer: You mean both the Herald street circulation and home delivery circulation? [654]

Mr. Sokol: Yes. I think you will stipulate to that, won't you, Mr. Palmer?

Mr. Palmer: Well, if it has any importance, we can check it up.

Mr. Sokol: It is not of any great importance, but I think, for the sake of the record, you are not contending that the downtown papers do not have more circulation than your own paper in your area?

Mr. Palmer: Some downtown papers. I can express my belief, if you want——

Mr. Sokol: Yes.

Mr. Palmer: That if you are combining the

(Testimony of J. R. Tobin.)

street and home delivery, it might be greater than ours; but if you are taking the home delivery alone, ours will be greater.

Mr. Sokol: All right. Thank you.

Mr. Palmer: Now, I am not trying to sell his Honor advertising in the paper, but I wouldn't make that concession as to the Examiner or as to the Daily News, but I think as to the Times I can make the concession too, without having the figures in front of me. That is just my general impression.

Trial Examiner Whittemore: Thank you.

Q. (By Mr. Sokol) I have one matter here. Will you explain what this term here "W.D." means? A. Oh, Where to Dine.

Mr. Palmer: What was that? Will you read that? [655]

(The question and answer were read.)

Q. (By Mr. Sokol) From your own analysis that your company has compiled, doesn't it show that Mr. Lugoff was the second highest man in classified in lineage?

A. I will have to look and see.

(Examining documents.) If it does, why it does?

Q. Well, it does, as a matter of fact. Now, did you tell Mr. Young that, that for the whole year of 1939 Mr. Lugoff was your second best man in production of lineage for the paper?

A. I don't know just what you mean by second best man.

(Testimony of J. R. Tobin.)

Q. Well, that Reid has the most lineage and that Lugoff came second?

A. Well, the fact that he came second didn't mean anything when you considered the potential——

Mr. Palmer: Now, just answer the question, whether you told Mr. Young.

Mr. Sokol: I move to strike the answer and ask that the witness be instructed to answer the question. May that go out?

Trial Examiner Whittemore: It may go out.

Q. (By Mr. Sokol) Now, did you tell Mr. Young in the latter part of 1939, when you were talking to him, about Mr. Lugoff, that his production was second? A. No, I didn't.

Q. Mr. Reid has been with the paper a long time, hasn't he? [656] I mean, how many years has he been with the paper?

A. I think he started in 1930.

Q. He has got the cream of the territory in the way of the best kind of ads, hasn't he?

A. No.

Q. He has automobile ads, practically all of them, hasn't he? A. Yes.

Q. When did you first learn of any attempt to organize the classified employees?

A. I don't believe I ever did have any definite information that they were trying to organize the department.

Q. What about this petition that Lugoff was circulating? How did you learn about that?

(Testimony of J. R. Tobin.)

A. Well, as I said yesterday, it was just one of those office——

Q. Well, you got the information from somebody. A. No, I can't——

Q. Now, did you see him circulate it himself?

A. No.

Q. Then how did you learn that he was circulating it?

A. Perhaps someone did tell me, but if they did, I don't recall who it was.

Q. What kind of a petition was it?

A. I don't know.

Q. Well, it was a petition to organize the people in the classified into the Guild, wasn't it? [657]

A. I don't know. I never saw the petition; never even made any inquiry about it.

Q. When did you hear about the petition?

A. I don't recall.

Q. Wasn't it just prior to Mr. Lugoff's discharge, just a week or two?

A. I am quite sure it wasn't.

Q. Why are you so sure?

A. It seems to me it was some time before that.

Q. How long before that?

A. Several months.

Q. What makes it stick in your memory as having been several months before that? Tell the Examiner the circumstances.

A. Well, the reason I choose that time is because I know it was several months after the Guild settle-

(Testimony of J. R. Tobin.)

ment was made. I believe that was in August of 1938. It was several months after that, which would make it much nearer the middle of 1939 than it would the early part of 1940. That is how I would arrive at that date.

Q. Did you attend any conferences of the department heads with Mr. Palmer?

A. Yes, I did.

Q. Did Mr. Palmer ever give you any instructions with regard to union activities?

A. No, sir. [658]

Q. You attended practically every conference, didn't you, except when you were on vacation?

A. What do you mean by "conference"?

Q. Well, you had department head meetings?

A. That is correct.

Q. And when did you have them?

A. Tuesday afternoons.

Q. And you attended them regularly——

A. That is right.

Q. —except when you were on vacation?

A. That's right.

Q. What about these union activities there of Mr. Lugoff? Were they noticeable around in your department?

A. No, I never particularly noticed it myself, no. I didn't make it a point to.

Q. You knew about them though? You got information from other people in the department?

A. No.

(Testimony of J. R. Tobin.)

Q. Can you explain to the Examiner how you learned he was passing out a petition?

A. I never told you that I knew he was passing out a petition.

Q. Well, what did you say?

A. I will ask the young lady to repeat it.

Q. I am asking you, to see if you remember what you said yesterday. I want to see how clear your memory is on what you [659] said yesterday on that petition. What did you say? Don't you recall?

A. Which petition are you talking about?

Q. Mr. Palmer was asking you questions, and he said "You remember, do you not, that Lugoff passed out petitions?" or words to that effect, and you gave an answer. What was your answer?

A. No, I didn't know.

Q. You don't remember what you said yesterday?

A. Well, you have talked about petitions and Guild papers.

Q. Mr. Palmer first asked you, did you know that Lugoff passed out a petition, and then he went into the contract. On the petition you said "Yes." On the contract you said "No." Do you remember that? A. No.

Mr. Sargent: Mr. Sokol, he didn't say that. He said he heard a rumor. That is what he said.

Q. (By Mr. Sokol) Oh, you heard a rumor about the petition?

(Testimony of J. R. Tobin.)

A. I believe I just repeated that to you a few minutes ago.

Q. And whom did you get the rumor from?

A. I don't recall.

Q. Now, you didn't want to fire Lugoff in August, 1938, you were just told to fire him, isn't that right?

A. No, that isn't true.

Q. Well, were you told—— [660]

A. I fired him.

Q. But were you told to fire him by anyone?

A. No.

Q. What was the reason for your firing him?

A. Because of his production record.

Q. That was the only thing? It wasn't because these strikers were returning?

A. No; no. I might add to that, too; of course, there was the fact that the whole—the lineage was down considerably in the whole department, and Lugoff's was just as low as or lower than anybody's had been for some time.

Q. Everybody was low during the strike, weren't they?

A. Lower than usual, yes.

Q. Do you remember your conversation with Mr. Lugoff in 1938, August 1938, when you cut him off the payroll?

A. No.

Q. You don't?

A. What conversation are you speaking of?

Q. The conversation in August 1938 when you

(Testimony of J. R. Tobin.)

cut Mr. Lugoff off the payroll. Do you remember the conversation?

A. When he was cut off, or before he was cut off?

Q. Or before he was cut off?

A. When he was cut off? After he was cut off, no, I don't recall having any conversation with him.

Q. Do you remember his talking to you about getting a loan, [661] prior to the time he went on his vacation?

A. I remember talking to him prior to his going on his vacation about—I don't recall whether he was getting a loan or had incurred a loan.

Q. You first learned that Mr. Lugoff was discharged, when he came back the Monday following March 30th, 1940, when he came in to see you that morning, is that right? Do you remember Monday morning, when he came in and did some work down there?

A. Yes.

Q. Is that the first time you learned about his discharge?

A. No.

Q. When had you learned about his discharge?

A. The previous Saturday.

Q. From whom did you hear it?

A. Young.

Q. What did he tell you?

A. He didn't tell me anything. I went over his records anyway, Lugoff's records, to see if his production had improved any, and which it hadn't.

Q. When did you go over the records?

(Testimony of J. R. Tobin.)

A. Oh, I believe that was on the Friday, Thursday or Friday prior.

Q. Did anyone tell you to go over his records?

A. Yes.

Q. Who. [662] A. Young.

Q. When? A. On the Thursday or Friday.

Q. What did he say to you? Les me ask you this: Are you absolutely sure about that date? Suppose I told you that Mr. Young had testified it was two weeks prior to March 30th, 1940.

Mr. Palmer: Well, then you would be telling him wrong, Mr. Sokol, because Mr. Young said it was within two weeks prior to that. He didn't say it was two weeks.

Q. (By Mr. Sokol) Are you positive of that date?

A. I am very positive of that, within that period of two days.

Q. What did Mr. Young tell you?

A. He didn't—I showed him the production record, and I don't believe that there was anything definite said until Saturday morning, and at that time Young asked me for his—the length of time that he had been there, and so forth.

Q. Did you tell him? A. Yes.

Q. What did you tell him?

A. Whatever it was, I told him.

Q. What did you tell him?

A. I don't recall how long he had worked there offhand.

(Testimony of J. R. Tobin.)

Q. In the discharge of August 1938 you discharged Mr. Lugoff [663] yourself, didn't you?

A. That's right.

Q. Have you ever heard of Mr. Palmer ever discharging anyone in your department, other than Mr. Lugoff? A. Well, of course——

Q. Directly. Did Mr. Palmer himself discharge anyone in your department at any time, other than Mr. Lugoff?

A. No, I don't believe he has.

Q. To your knowledge, has Mr. Palmer ever discharged anyone in the classified advertising department?

A. I thought that's the one you were just speaking of.

Mr. Sargent: Display.

Q. (By Mr. Sokol) I mean display advertising department, other than Mr. Fisher, if you can remember?

A. I wouldn't know anything about the display department.

Q. Have you personally had occasion to fire anyone in your department?

A. On many occasions.

Q. And you did that yourself?

A. You mean without consulting anyone else?

Q. No, I mean the last word, the actual discharge came from you? A. That's true.

Q. Did Mr. Young ever personally discharge anyone directly?

(Testimony of J. R. Tobin.)

A. Well, you mean in the classified department?

[664]

Q. Yes. A. No.

Q. Now, you know Mr. Allen's territory?

A. Yes.

Q. Miss McKellar now works with Allen on that territory?

A. It depends on what you mean by "works with".

Q. Well, she covers part of the territory?

A. She works in the same territory.

Q. Yes. Previously Allen had worked that territory alone; is that right?

A. Yes, that's right.

Q. Why did you put Miss McKellar in there?

A. Because I knew that from her work on other newspapers she had an acquaintance along automobile row in Los Angeles, and we were getting practically no advertising from the down town dealers at that time, and she convinced me she would be able to get some of that for the paper, which she did.

Q. Mr. Lugoff was the lowest paid man, I mean in the way of commissions; isn't that right?

A. No.

Q. Well, Mr. Lugoff got a cent and a half a line and one cent per ad, and \$10.00 base pay, is that right?

A. That's right.

Q. What is Sellers getting per line?

A. The same as Lugoff. [665]

(Testimony of J. R. Tobin.)

Q. And the same base pay?

A. The same base pay.

Q. And McKellar gets two cents a line?

A. That's right.

Q. And the same base pay?

A. That's right.

Q. And Allen two cents a line and \$12.00 base pay?

A. \$12.50, I believe.

Q. \$12.50? A. I believe it is.

Q. Has Mr. Allen been with the paper longer than Mr. Lugoff?

A. Well, what period of time are you taking in there?

Q. In all?

Mr. Palmer: You mean from the time that Lugoff last returned to the paper?

Mr. Sokol: Yes.

The Witness: Allen has been there longer.

Q. (By Mr. Sokol) Lugoff has been there longer than McKellar, hasn't he? A. Yes.

Q. Do you think it takes any experience to sell classified advertising?

A. Well, if you were to ask me what the requirements were for successfully selling classified advertising, I would say it was about 90 per cent work and ten per cent ability. [666]

Mr. Palmer: Ten per cent what?

The Witness: Ability.

Mr. Palmer: Ability?

The Witness: Ability.

(Testimony of J. R. Tobin.)

Q. (By Mr. Sokol) Had you any demonstration of ability along that line from Mr. Sellers prior to the time he went to work?

A. The ability as to what? What kind of ability?

Q. Selling classified advertising.

A. No, I hadn't.

Q. Who hired Sellers?

A. What do you mean "who"?

Q. Who hired Sellers?

A. To work where?

Q. Who assigned him to work with you?

A. I did.

Q. Had he spoken to you about that previously?

A. No.

Q. Didn't you have him in mind——

A. Yes.

Q. ——to take Lugoff's place? A. When?

Q. At any time? A. No, not—I had, yes.

Q. You know that he is not a member of the Newspaper Guild? A. No, I don't. [667]

Q. You don't? A. No.

Q. Have you ever spoken——

A. I would like to qualify that statement I just made as to when I had Sellers in mind. That was on this same Thursday or Friday that I was speaking of, that I talked to Young about Lugoff's earnings.

Q. You have talked to some of the employees about the Newspaper Guild, haven't you?

A. I have talked to Young about it.

(Testimony of J. R. Tobin.)

Q. When was that?

A. Oh, I probably talked to him several times.

Q. When was the first time?

A. I don't recall. Oh, yes, I do too. It was during the strike in 1938.

Q. What was that conversation about? Can you relate the conversation?

A. Well, I just inquired how things were getting along.

Q. What did he say about the Guild?

A. Nothing.

Q. Well, I am asking you about conversations about the Newspaper Guild.

A. That is what I say, what my conversation was about. I asked him how they were getting along in their negotiations, and so forth. [668]

Q. Whom else did you converse with?

A. No one.

Q. These men that worked in this classified department, other than Sellers, hasn't every one of them had classified experience prior to coming to work with the paper?

A. Are you talking about every employee in the classified advertising department?

Q. Yes, who sells ads?

A. No, they haven't.

Q. Don't all these outside men?

A. Well, what are you talking about—outside men or the whole department?

(Testimony of J. R. Tobin.)

Q. Let's take the outside men. They all had previous experience selling ads except Sellers?

A. I think Allen had had about a month's experience.

Q. The others had a longer period of experience?

A. You mean Reid and McKellar?

Q. Yes. A. Yes.

Q. Did you ever hear of Sellers doing anything in the way of unionism? A. No.

Q. Have you ever heard of Allen ever doing anything in the way of unionism? A. No. [669]

Q. Have you ever heard of McKellar doing anything in the way of unionism? A. No.

Q. Reid? A. No.

Mr. Sokol: May we have just a few minutes?

Trial Examiner Whittemore: We will take a five minute recess.

(A short recess was taken.)

Trial Examiner Whittemore: Proceed.

Mr. Sokol: That is all.

Redirect Examination

Q. (By Mr. Palmer) On your cross examination, Mr. Tobin, you stated that some accounts had been given to Mr. Sellers, that could be assigned by you to anyone. These were telephone requests for a solicitor to call?

A. Well, that's all that they were, yes.

Q. Well——

A. Telephone calls that came in for salesmen to call.

(Testimony of J. R. Tobin.)

Q. I am just reminding you of that. Now, when Mr. Lugoff was there, did Mr. Lugoff ever get the same calls?

A. Yes, he got the same calls too.

Q. In assigning accounts, did you or did you not have the privilege, under the arrangements with your solicitors, to assign accounts wherever you wished? [670]

A. I did have that privilege.

Q. On your cross examination I believe you were asked something about giving any large account to any particular person. You could have done that, if you desired?

A. Yes, I could.

Q. It was commonly known that Mr. Reid had the automotive accounts?

A. Yes.

Q. Did anyone else have any special account that might have been outside of their general classification?

A. Well——

Q. You testified a few minutes ago that Miss McKellar was given the automotive accounts downtown, and that the downtown territory was where Mr. Allen worked.

A. Well, I might say, in addition to the automotive accounts, Miss McKellar was given certain calls in other lines of business to be made. I remember distinctly one account that is still running in the paper at the present time, and that is the California Bank, that Allen had been calling on for several months and had been unable to close the account, and I turned the account over to Miss McKellar to be worked on, and she got the account

(Testimony of J. R. Tobin.)

within a few weeks, and it has been in the newspaper ever since.

Q. What kind of classified ad would the California Bank put in? [671] A. Real estate.

Q. How would you describe the characteristics of Mr. Lugoff, as to his work, referring to the question of whether or not he was aggressive, whether or not he was diligent, whether or not he worked steadily and thoroughly on his job?

Mr. Sokol: I object to that.

Mr. Palmer: I am asking the witness to describe it, and adding, in order to indicate what I mean, the description of his characteristics.

Mr. Sokol: That isn't a fair question.

Mr. Palmer: Why isn't it?

Trial Examiner Whittemore: I will overrule the objection. The question is the weight that may be given to it.

Mr. Palmer: I am bringing this up because of the answers that Mr. Sokol got, that he had stricken out, which we would like very much to have in, as to what type of a worker Mr. Lugoff was.

Mr. Sokol: The way I look at that, Mr. Examiner—pardon me—shall we go off the record?

Trial Examiner Whittemore: No, I am perfectly willing if it is left on the record.

Mr. Sokol: Well, I want to say simply this: The question is not what the respondent thinks of him now, postmortem, but what it concluded prior to the discharge.

(Testimony of J. R. Tobin.)

Mr. Palmer: All right. I will limit it. [672]

Trial Examiner Whittemore: That is one of the reasons that I said it was a matter of the weight to be given to it. However, let's hear what the witness, who was his boss, thinks of him. Certainly, he is entitled to an opinion, and if so, to express it.

Mr. Palmer: I will limit it though to what he thought prior to his discharge, if that will help any.

The Witness: Well, there have been times when Lugoff was a very, very good worker, and there have been many other times when he would not make half the calls that it would be possible to make in eight hours.

Q. (By Mr. Palmer) In your opinion, if he had made more calls, would he have produced more lineage? A. Yes, sir.

Mr. Sokol: That is objected to as argumentative.

Mr. Palmer: I don't think it is argumentative.

Mr. Sokol: All right. It is only his opinion.

Mr. Palmer: It goes on the same theory, and I am asking him only for his opinion.

The Witness: Yes. My answer is "yes".

Q. (By Mr. Palmer) Would much classified business be sold if calls were not made?

A. No.

Q. All of these outside salesmen are supposed to be making calls upon prospects, are they not? [673]

A. That's true.

(Testimony of J. R. Tobin.)

Q. And you inside salesmen, in the same way?

A. Yes, that's true.

Q. Had you ever observed Mr. Lugoff during working hours, when he was not applying himself to his work? A. Yes.

Q. Do you recall any occasions, specific occasions that you can mention?

A. To name the date, you mean?

Q. Yes.

Mr. Sokol: I would like to have the date.

Q. (By Mr. Palmer) No, just if you recalled any occasions. We will get the dates, but I am now asking if you recall.

A. I remember any number of occasions when I have seen him playing pin marble games during working hours.

Q. During working hours? A. Yes, sir.

Q. Where was it that he was playing pin marble games?

A. Oh, at Taylor's Barber Shop on Wilcox Avenue.

Q. About where is Taylor's Barber Shop on Wilcox Avenue?

A. I believe it is 1645 Wilcox.

Q. 1645? A. I believe that's it.

Q. That would be just south of Hollywood Boulevard? A. That's true. [674]

Q. And on the same side of the street as the Citizen-News building? That's true.

(Testimony of J. R. Tobin.)

Q. Do you remember any particular occasion that you observed him there?

A. Well, I remember one time in particular that I saw him playing there, and I went around the corner and kept track of how long he played there, and it was an hour and 20 minutes.

Q. About when was this, Mr. Tobin? First do you recall about when it was?

A. I believe it was the latter part of '39.

Q. On that particular occasion you made your own check as to time? A. Yes, sir.

Q. And it was an hour and 20 minutes from the time you saw him there, until you saw him leave?

A. Until he left. Of course, I didn't see him go in there.

Q. No, I say from the time you saw him there?

A. Yes.

Mr. Sokol: Until when?

Q. (By Mr. Palmer) That was during working hours?

A. Incidentally, that was in the morning too.

Q. But on many other occasions, or on other occasions you also saw him there?

Mr. Sokol: Just a moment. [675]

The Witness: Yes.

Mr. Palmer: Strike out the "many".

Q. (By Mr. Palmer) On other occasions you saw him? A. Yes.

Q. And were those occasions few in number?

(Testimony of J. R. Tobin.)

Mr. Sokol: I object to that. Let's have the specific occasions.

Trial Examiner Whittemore: I think we should have. He said there were occasions and you have cited one case.

Mr. Palmer: Yes.

Q. (By Mr. Palmer) Do you recall any other specific occasions?

A. Well, I could almost name any day in the week, and it would be true, but I can't honestly name any other specific occasion.

Q. During Mr. Reid's vacation, when Mr. Sellers handled some of his accounts for the week ending June 13, 1940, you said you thought 100 lines of Seller's production came from Reid's territory, but you did not state for the week ending June 20, 1940 the number of lines you thought came from Mr. Reid's territory. Do you wish to look——

A. I don't believe that 100 lines——

Q. You didn't say 100 lines?

A. No, I believe I said more than that, or I should have.

Q. Will you look at the record for the week ending June 13, 1940 and the week ending June 20, 1940? [676]

A. I guess I was right after all. I would say in the week ending June 20th that he had in the vicinity of a hundred lines, perhaps 150 lines from Reid's territory, and in the week ending June 13, 1940, I would say that he had another 150 lines.

(Testimony of J. R. Tobin.)

Q. And Mr. Reid's average production per week during that period was what, just roughly? The average before he went on vacation was what for Reid?

A. Let's see. His production the week before he started on his vacation was 1740 lines.

Q. And the week before that?

A. 2095 lines.

Q. Now, this first discharge of Mr. Lugoff in 1938 was made by you? A. Yes, sir.

Q. When you left on your vacation—well, I think that is in the record—but when did you leave on your vacation, in reference to that discharge?

A. On the day that he was discharged.

Q. On the day that he was discharged. Prior to leaving, did you know anything about his going to my office? A. No, I didn't.

Q. When did you first learn that he had gone to my office?

A. When I returned from my vacation.

Q. All the time during your vacation you did not know that [677] he was back on the job?

A. No.

Q. Was Mr. Lugoff, when he was employed by the Citizen-News permitted to have an automobile accounts in his territory? A. Yes, sir.

Q. How was that determined, whether or not he could have them? A. By myself.

Q. Reference has been made to the Boulevard Loan Company, the Dalton Loan Company and

(Testimony of J. R. Tobin.)

Donaldson's. Were they at any time classified advertisers in the Citizen-News?

A. Yes, they were.

Q. And were they classified advertisers during the year 1940?

Mr. Sokol: Just a moment.

Q. (By Mr. Palmer) (Continuing) Prior to Mr. Lugoff's leaving?

Mr. Sokol: I object to that. The records will be the best evidence.

Mr. Palmer: No better than his knowledge, if he recalls.

Mr. Sokol: I object to it. The records are the best evidence.

Trial Examiner Whittemore: Well, to the best of his knowledge, let him answer.

The Witness: Would you repeat that? These three companies were—— [678]

Q. (By Mr. Palmer) Were any one or more of these three companies advertising in the Citizen-News in the year 1940, prior to Mr. Lugoff's discharge?

A. No, to the best of my knowledge, they were not.

Q. Were those concerns in business in 1940, prior to Mr. Lugoff's discharge?

A. Well, I am certain that Dalton's and Boulevard Loan Company was. I am not sure whether Donaldson was or not.

(Testimony of J. R. Tobin.)

Q. Were they accounts, the solicitation of which Mr. Lugoff the right? A. Yes, sir.

Q. They were within his assignments?

A. Yes, sir.

Q. Which he could at any time during that period have solicited? A. Yes, sir.

Q. Is that the type of account which you referred to as a Money to Loan account?

A. Yes, sir.

Q. As being among the better type of accounts?

A. Yes, sir.

Q. Are there any real estate concerns in the territory which was assigned to Mr. Lugoff, or were there any during the time he worked for the Citizen-News?

A. Yes, there were any number of them.

Q. When you say "any number"— [679]

A. I mean a great many.

Q. —that doesn't mean anything to me.

A. There were a great many.

Q. Were there 20 or 30, or 40, or 10?

A. Oh, I would say between 75 and 100.

Q. Between 75 and 100 real estate accounts——

A. Yes, sir.

Q. —within the territory assigned to Mr. Lugoff?

A. Yes, sir.

Q. And within his assignments he had the right to solicit any of those real estate concerns?

A. That's true; that is, any of those that the girl in the phone room that had that classification,

(Testimony of J. R. Tobin.)

any that she happened to be running, the phone room and the outside room worked in competition with each other.

Q. That is what I thought. I wanted to straighten that out. If the girl in the phone room had a real estate account that she was handling over the telephone, that Mr. Lugoff was not permitted to solicit that account? A. That's true.

Q. Was any information given out so Mr. Lugoff would know whether or not there were accounts being handled by the phone girl that was within his territory? How would he know that he wasn't to solicit a particular account?

A. He had access to what we call the marked paper, which shows [680] to whose credit each piece of advertising is run.

Q. Did you mark a paper each day?

A. Yes, sir.

Q. And that was left in the classified department? A. Yes, sir.

Q. And against each ad the name of the person creditable with that ad was placed?

A. Yes, sir.

Q. After you eliminated the number of real estate accounts which the phone girl might have in Mr. Lugoff's territory, were there then any real estate accounts open to his solicitation?

A. I would say there were at least 60.

Q. And the real estate accounts are also among those which you classified as better accounts?

(Testimony of J. R. Tobin.)

A. Yes, sir.

Q. As to apartment house accounts, were there any apartment houses in Mr. Lugoff's territory?

A. Yes, there were a great number of apartment houses in his territory.

Q. Did the same rule apply to them as to real estate, that if the phone girl had the account it was not eligible for his solicitation?

A. Yes, sir.

Q. But if the phone girl did not, it was eligible for his solicitation? [681]

A. Yes, sir.

Q. How many eligible apartment house accounts do you believe were in Mr. Lugoff's territory, roughly? I don't care for it exactly.

A. Well, I would say there were 150, but I would qualify that by saying that they were not all eligible for Lugoff to call on.

Q. My question was: eligible for Mr. Lugoff to call on.

A. Oh, I would say a hundred.

Q. And not less than 75?

A. Not less than 75, no.

Q. At the time that you employed Miss McKellar to solicit advertisements in automobile row in downtown Los Angeles, was Mr. Allen at that time producing automobile accounts from said automobile row?

A. We may have been running one or two.

Q. After you employed Miss McKellar, did the number of automobile row advertising accounts increase?

A. Yes, sir.

(Testimony of J. R. Tobin.)

Q. The Where To Dine accounts were open for the solicitation of Mr. Lugoff? A. Yes, sir.

Q. In respect to territory, should the lineage produced in that territory assigned to Mr. Lugoff have been higher than the lineage produced in the assignments to Allen and McKellar? [682]

A. Yes, it should have.

Q. And why?

A. Because there were so many prospective advertisers in Lugoff's territory, which is practically the center of our circulation, and, of course, those professional advertisers were practically all dealing, in the case of real estate, in Hollywood real estate or San Fernando Valley real estate, whereas a real estate concern down town might primarily be interested in downtown real estate or some place over in the Northwest—Northeast, rather.

Q. In assigning the automobile accounts to Mr. Reid, did you do so because of the confidence that he was the logical and the best man to handle those accounts?

A. That's the reason it was done.

Q. Do you still believe that he did, while Mr. Lugoff was there, produce more lineage than Mr. Lugoff would have produced from those accounts?

A. Yes, sir.

Q. Do you believe that there is a difference in salesmen—— A. Yes, sir.

Q. —in their productive capacities?

A. Yes, sir.

(Testimony of J. R. Tobin.)

Q. Did you ever make inquiry as to anybody's membership or lack of membership in a union?

A. No, sir. [683]

Q. At the time of Mr. Lugoff's last discharge, when was the first that you learned about it?

A. About his last discharge?

Q. His last discharge.

A. On the Saturday morning that he was discharged.

Q. Now, Mr. Lugoff came in to see you on Monday morning? A. Yes.

Q. The following Monday morning?

A. That's true.

Q. Did he at that time state to you in effect that "this is as much of a surprise to you, as it is to me"? A. He did not.

Q. And it was not a surprise to you on Monday morning?

Mr. Sokol: Just a moment. I object to that as leading and suggestive, and calling for the conclusion of the witness.

Mr. Palmer: I will withdraw the question.

Q. (By Mr. Palmer) do you know who did discharge Mr. Lugoff? A. Yes.

Q. Did Mr. Lugoff tell you—— A. No.

Q. —or did Mr. Young tell you? A. Yes.

Q. There was nobody among the four outside salesmen that had a lower base rate of pay than Mr. Lugoff, was there? A. No. [684]

(Testimony of J. R. Tobin.)

Q. Nobody was paid less than a cent and half a line and less than one cent an ad? A. No.

Q. And nobody paid less than a \$10.00 base? A. No.

Q. And some of the salesmen were paid more than that? A. That's true.

Q. I think I went into that sufficiently on direct. Do you believe that Mr. Lugoff applied 90 per cent work to his job?

Mr. Sokol: That is objected to.

The Witness: No, I do not.

Mr. Sokol: Just a moment. Pardon me.

Trial Examiner Whittemore: No.

Mr. Sokol: Is that overruled, or what was the ruling?

Trial Examiner Whittemore: I will sustain the objection to that.

Mr. Sokol: May the answer be stricken?

Trial Examiner Whittemore: It may be stricken.

Q. (By Mr. Palmer) To your knowledge, did Mr. Lugoff put in his full time on his working days on his job?

Mr. Sokol: Objected to. No foundation laid.

Trial Examiner Whittemore: I will permit the witness to answer that question.

The Witness: Will you repeat that? [685]

(The question was read.)

The Witness: He did not.

Q. (By Mr. Palmer) Did anybody recommend Mr. Sellers to you for Mr. Lugoff's job?

(Testimony of J. R. Tobin.)

A. Yes.

Q. Who was that? A. Young. I might——

Q. Did you consider any other possibilities at that time? A. I asked for him myself.

Q. You asked Mr. Young for Sellers?

A. That's true.

Q. Had Mr. Sellers asked you for the job?

A. No, sir.

Q. How long after Mr. Lugoff left was his position filled?

A. Well, I believe Sellers started in the classified department a week or perhaps two weeks after Lugoff left.

Q. During the week following his leaving, you then considered people to take Mr. Lugoff's place?

A. No. I had decided, I believe, on Monday or Tuesday morning.

Q. You didn't take the week? A. No.

Q. You took a day or two? A. That's true.

Q. It is not necessary that a person—or, required that a [686] person have outside experience, other experience, before you will accept them as classified solicitors? A. No, sir.

Q. Did you know how long Mr. Sellers had worked on the paper before?

A. No, I didn't.

Q. Had he worked more than a year?

Mr. Sokol: He said he didn't know. Pardon me. I object to the question.

(Testimony of J. R. Tobin.)

Mr. Palmer: He could know the answer to the last question and not know the answer to the first.

Trial Examiner Whittemore: Ask him then if he knew. He said he didn't know how long he had been there, in answer to the first question.

Mr. Palmer: Yes.

Trial Examiner Whittemore: I will sustain the objection to the last question as put. Your last question was: Had he worked more than a year?

Mr. Palmer: Yes. I will ask him this way:

Q. (By Mr. Palmer) Do you know whether or not he had worked there longer than a year?

A. Yes, I know he had worked there longer than a year.

Mr. Palmer: That is all. Just a minute. Go ahead.

Recross Examination

Q. (By Mr. Sokol) Most of these apartment houses in [687] Hollywood, or certain of them, these mortgage houses control them and those ads for those people are handled by the down town people, or were?

A. Some of them were, yes.

Q. That is, Allen or McKellar? They were handled by either one of those people you had downtown?

A. No. To the best of my recollection, most of them were handled by the girl that had that classification in the phone room.

Q. When you found out that Allen didn't get

(Testimony of J. R. Tobin.)

these automobile row ads, and after you discovered that McKellar was able to get them, did you fire Allen at that time?

A. No. I hadn't assigned him, in the first place, to automobile row in the downtown area. He had a general assignment in the city.

Q. He had the whole territory, though?

A. That's true.

Q. Did you play the marble machine too?

A. Yes, I have played it a few times.

Q. And during working hours, isn't that right?

A. No, that is not correct.

Q. What? A. That is not true.

Q. When did you play the marble machine?

A. Well, I will tell you the usual practice. It has been so [688] long ago——

Q. So you don't remember just when you played it, is that right? A. Yes, that's it.

Q. Well, at this time when you witnessed Lugoff——

Mr. Sokol: Pardon me. May this be off the record?

Trial Examiner Whittemore: Well, what do you mean, off the record?

Mr. Sokol : All right. I will go ahead.

Trial Examiner Whittemore: You are putting your question to the witness and it certainly should be on the record.

Q. (By Mr. Sokol) Now, at this time when you

(Testimony of J. R. Tobin.)

witnessed his playing the marble machine for an hour and a half, when was that?

A. I think that was around the latter part of 1939.

Q. Is that about the time you were indulging in the marble habit yourself? A. No.

Q. You were playing the marble machine that year, weren't you? A. No.

Q. Well, what time of day was this?

A. I believe it was about a quarter after nine in the morning.

Q. You stood right there and watched him?

A. No.

Q. Well, how do you know he played for an hour and a half? [689]

A. As I say, I walked around the corner and stayed there and learned all about shoes.

Q. You learned all about shoes?

A. I watched the section there, and watched for Lugoff to come out of the barber shop, and it was an hour and twenty minutes before he came out.

Q. What did you say to him?

A. I didn't say a word to him at that time.

Q. When did you say anything to him?

A. I think later on that day.

Q. The same day? A. Yes.

Q. Did you report the incident to anyone?

A. No. Not at that time, no.

Q. When did you?

(Testimony of J. R. Tobin.)

A. I don't believe I ever did tell anyone, report that incident to anyone at all.

Q. Has Mr. Young ever sold classified ads?

A. I don't know whether he has or not.

Q. That is all. Oh, there is just one thing further: The Boulevard Loan, those loan ads were handled by the downtown territory salesman, isn't that right?

A. No, that isn't right.

Q. What? A. That isn't right. [690]

Mr. Sokol: That is all.

Trial Examiner Whittemore: Any other questions?

Redirect Examination

Q. (By Mr. Palmer) Do the downtown sales people handle any loan accounts?

A. Yes; yes.

Q. What have you assigned to them in the way of loan accounts? What have you assigned to the downtown salesmen, McKellar and Allen?

A. Well, at the present time Allen is running a Money to Loan account that has an office in Hollywood, and the advertising is placed downtown.

Q. Accounts that are placed downtown for Hollywood institutions would be assigned or were assigned to the downtown salesmen?

A. Not necessarily, no.

Q. Well, this account you spoke about, about Mr. Allen's handling, what caused you to assign that to Mr. Allen?

Mr. Sokol: He didn't say he assigned it to Allen.

(Testimony of J. R. Tobin.)

Q. (By Mr. Palmer) Was he handling it when Mr. Lugoff was there?

A. I don't believe the account was running when Mr. Lugoff was there. I am not sure of that.

Mr. Palmer: I will withdraw the question. That is all. [691]

Recross Examination

Q. (By Mr. Sokol) That account is one that was in Lugoff's territory, and they placed the ad through downtown, is that it? A. That's true.

Mr. Sokol: That is all.

Q. (By Trial Examiner Whittemore) Did you ever reprimand Lugoff for playing the pin ball game? A. Yes, sir.

Q. Did you tell him to stop? A. Yes, sir.

Q. Did you threaten to discharge him if he didn't stop? A. Yes.

Q. Did he stop? A. No, sir.

Mr. Sargent: What was that last question?

(The record was read.)

Q. (By Trial Examiner Whittemore) Why didn't you discharge him?

A. Well, I kept thinking all the time that he would stop. I might say that in the last three or four months he was there, he didn't play quite as much as he had previous, but still played considerably.

Q. How do you know? Do you follow him around eight hours a day?

A. No, but I have occasion to walk up and down

(Testimony of J. R. Tobin.)

Wilcox Avenue [692] quite often, and the two places that he played at, to my knowledge, were on that street.

Q. Those are the only places of pin ball games?

A. I say the two places that he played at most were on, I believe, that street.

No, I never went around looking for him.

Q. Over how long a period had you seen him playing pin ball games?

A. Well, I believe from about the first part of '38.

Q. And from then on up until the time of his discharge in 1940?

A. Yes, sir.

Q. Do you recall about when it was you first threatened him with discharge if he didn't stop?

A. I believe it was in May or June of '38.

Q. And nearly two years went by and still——

A. No, '38.

Q. Still you didn't discharge him?

A. No. I said he first started in '38, '39 and '40.

Q. But I thought you said you first reprimanded him in April or May of 1938?

A. '38, yes.

Q. And you discharged him in 1940?

A. No, I discharged him in August, 1938.

Trial Examiner Whittemore: I am referring to his final [693] discharge. He was finally discharged in 1940.

Mr. Palmer: If your Honor will recall, the witness testified he did not discharge him in 1940.

(Testimony of J. R. Tobin.)

Trial Examiner Whittemore: But he was discharged?

Mr. Palmer: Yes, he was discharged.

Trial Examiner Whittemore: Well, the witness testified that all during this time the witness had seen him, and what I am wondering is with this breach of discipline or orders given to the man, why he didn't discharge him, and I am asking him that.

The Witness: To be real frank with you, I should have discharged him. He should have been discharged before he was.

Q. (By Trial Examiner Whittemore) Did you ever report this to Mr. Palmer? A. No, sir.

Q. Did you ever report it to Young?

A. Yes, sir.

Q. What did Young tell you to do?

A. Well, he said to keep after him and see if we couldn't get him to work harder, so he would produce more lineage.

Q. Did you ever see him asleep in a car?

A. No, sir.

Trial Examiner Whittemore: That is all.

Redirect Examination

Q. (By Mr. Palmer) Did you ever see him asleep in the office? [694]

A. Well, I wouldn't exactly say asleep.

Q. Just answer "no" then. A. No.

Q. You did discharge Mr. Lugoff in August 1938, and the publisher overrode your discharge?

(Testimony of J. R. Tobin.)

A. Yes, sir.

Q. Did the publisher ever tell you the reasons for overriding your discharge? A. Yes, sir.

Q. When did pin marble games stop operating in the City of Los Angeles? A. I don't know.

Q. Well, they are not operating now?

A. No; most of them aren't.

Q. How?

A. No, they are not operating now.

Q. And you don't know when they stopped?

A. No.

Mr. Palmer: That is all. [695]

T. HARWOOD YOUNG,

a witness called by and on behalf of the respondent, having been previously duly sworn, was examined and testified as follows:

Direct Examination [698]

Q. Was Frank Gilman at one time employed by the Citizen-News? A. Yes. [701]

Q. In what capacity?

A. He was a credit supervisor, and assistant to Mr. Smith, credit manager.

Q. Did he supervise any particular classification of credits?

A. Well, the one where I would contact him most was in the markets, handling of the retail accounts, primarily the markets.

(Testimony of T. Harwood Young.)

Q. Mr. Smith was the credit manager?

A. Yes, sir.

Q. Is Mr. Gilman now in the Citizen-News employ? A. No.

Q. Did he resign or was he discharged?

Mr. Sokol: That is objected to as immaterial.

Mr. Palmer: I think it is material. I wouldn't even bring it up, your Honor, and perhaps we do get into a lot of little things, and I have been trying to keep away from as many of them as possible, but the testimony of Mr. Lugoff, it seemed to me, in reference to a question as to Mr. Gilman was offered for the sole purpose of trying to prove that Mr. Gilman was a representative of management and favored by the management, and because he was not a member of the Guild. Mr. Lugoff——

Trial Examiner Whittemore: I recall that.

Mr. Palmer: Mr. Lugoff later testified that Gilman was not a member of the Guild, and now I am offering to prove that the Citizen-News exercised its right to fire non-Guild members, [702] as well as Guild members.

Mr. Sokol: Oh, I will withdraw my objection.

Trial Examiner Whittemore: All right.

The Witness: I will have to get the question.

Mr. Palmer: Will you read the question?

(The question was read.)

The Witness: He was discharged.

Q. (By Mr. Palmer) At the time that Mr. Gil-

(Testimony of T. Harwood Young.)

man was discharged, was Dwight Moulin discharged? A. Yes.

Q. Did you ever hear anything about Mr. Lugoff's circulating any petition among classified employees, which petition requested the Newspaper Guild to bargain for the classified employees?

A. At what time?

Q. At any time. A. In this room, yes.

Q. No, prior to this trial did you ever hear of it? A. No.

Q. You were present in this room while Mr. Lugoff testified—— A. Yes.

Q. —about his circulating first a petition——

A. Yes, I heard that.

Q. —and then a copy of a contract drawn along the lines of the Herald Express contract? [703]

A. Yes, I heard some questioning on that point.

Q. And then again another petition?

A. Yes.

Q. Prior to coming into this court room, had you ever heard about any of those activities?

A. No.

Q. You did have a conversation with Mr. Lugoff prior to July 1, 1939, in reference to increasing the guarantee for classified sales people?

A. Yes.

Q. The basic weekly guarantee? A. Yes.

Q. And in connection with those conversations, a weekly guarantee of \$24.00 was determined upon?

A. That's right.

(Testimony of T. Harwood Young.)

Q. Do you recall any conversation with Mr. Lugoff in reference to the guarantee? A. Yes.

Q. Will you relate the conversation?

A. I told Mr. Lugoff that an arrangement for a guarantee had been made, and that people working under that guarantee would be expected to hold to earnings in line with them.

Q. Did Mr. Lugoff make any comment in reference to that?

A. I put it as a question on that, if he understood that and if that was agreeable, and he assented that that was a [704] reasonable position in relation to the guarantee.

Q. You say he assented. Do you recall anything that he said?

A. To the best of my recollection, in that respect it was just a nodding assent, that that was reasonable. I don't recall a specific comment.

Q. The question was asked——

Mr. Palmer: Your Honor, I am trying to pick out a few small ones before lunch. It is about 12:00——

Trial Examiner Whittemore: All right.

Q. (By Mr. Palmer) The question was asked of Mr. Tobin by Mr. Sokol whether or not you ever sold classified ads. I don't know whether you ever did or not, Mr. Young, but did you?

A. I have never sold them solely. In the earlier days there were occasions when I had to contact all

(Testimony of T. Harwood Young.)

classes, and I will probably receive some today that come around on a complaint, or something of that sort, but that is not selling, that is receiving them.

Q. Well, you spoke about the early days. In the early days of the Citizen-News——

A. That's right.

Q. —you sold about everything, didn't you?

A. Yes, classified and display, and whatever it was.

Q. Both classified and display? A. Yes.

Q. And prior to coming to the Citizen-News?
[705]

A. Yes.

Q. Which, as you say, was about 20 years ago?

A. Yes.

Q. Did you have any newspaper experience then?

A. Well, that's all I had ever done in college, and later with a small town daily, in which the situation was similar, of selling both classified and display.

Q. You had sold classified?

A. Yes, a little, on a small city daily.

Q. Together with display advertising on that paper? A. That's right. [706]

HARRY A. HAAS,

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Palmer) What is your name, please?

A. Harry A. Haas, H-a-a-s.

Q. Where are you employed, Mr. Haas?

A. Bank of America, Hollywood main office, 6331 Hollywood Boulevard.

Q. That is the office at Hollywood and Ivar?

A. That's correct.

Q. Have you brought with you, in response to a subpoena, the bank records pertaining to any loans made by Leonard Lugoff during the year 1938?

A. I have.

Q. May I look at those records?

A. That is the applications, and the payment records. [708]

(Handing documents to counsel.)

Q. What are these others? Are they duplicate records?

A. They are duplicate records I made in case.

Mr. Sokol: May we go off the record?

Trial Examiner Whittemore: Off the record.

(Discussion off the record.)

Trial Examiner Whittemore: On the record.

Q. (By Mr. Palmer) You don't mind leaving the copies?

(Testimony of Harry A. Haas.)

A. No, but I would like to have a memorandum that I left the copies of the record.

Mr. Palmer: Oh, yes.

Mr. Sokol: Can we stipulate to save time?

Mr. Palmer: Yes.

Mr. Sokol: What do you want to prove by these, and I will just stipulate?

Mr. Palmer: That on the——

Mr. Sokol: August 25th was the date—no, pardon me.

Mr. Palmer: That on the 27th day of July, 1938 Mr. Lugoff made a loan with the Bank of America in the sum of \$165.

Mr. Sokol: Is that all you want?

Mr. Palmer: Yes.

Mr. Sokol: This is still off the record?

Trial Examiner Whittemore: Off the record.

(Discussion off the record.) [709]

Mr. Sokol: Now, may we go on the record?

Trial Examiner Whittemore: Yes.

Mr. Sokol: It is stipulated between the parties that on July 27, 1938 Mr. Lugoff made a loan from the Bank of America in the total sum of \$165; that in addition to that loan on that date there was outstanding from a previous loan the sum of \$32.50.

Mr. Palmer: So stipulated.

Trial Examiner Whittemore: What was the date of the original loan on which there was a balance?

Mr. Sokol: That was previous.

The Witness: June 18, 1938.

(Testimony of Harry A. Haas.)

Mr. Sokol: Then I will correct the stipulation to say: With an additional sum of \$32.50, which was due them on that date from a previous loan made——

The Witness: June 18th.

Mr. Sokol: —June 18th, 1938.

Mr. Palmer: In the sum of \$45.00.

Mr. Sokol: In the sum of \$45.00.

Trial Examiner Whittemore: Thank you.

Mr. Sargent: And that those were the only indebtedness of Mr. Lugoff——

Mr. Sokol: Yes.

Mr. Sargent: At the Bank of America on that date.

Mr. Sokol: Yes. [710]

The Witness: That is it.

Mr. Palmer: I would like to ask the witness a question. Were you asking the witness that question?

Mr. Sargent: No, that is a part of the stipulation.

Q. (By Mr. Palmer) Then I will ask the witness: on that date of July 27th, that was all of Mr. Lugoff's indebtedness at the bank?

A. So far as our records indicate, yes.

Q. The \$165 loan was an automobile loan, loaned with an automobile as security?

A. That's correct.

Q. And the \$45 loan, was that secured or unsecured?

(Testimony of Harry A. Haas.)

A. That is an unsecured personal loan.

Mr. Palmer: All right. You may take the witness.

Cross Examination

Q. (By Mr. Sokol) Do you know the amount, from your records, that Mr. Lugoff applied for on that date, July 27, 1938?

A. That raises a question. Do you want the actual loan amount?

Q. No, here is what I mean: If a man comes into the bank and says "I want so much money," the bank says "What collateral do you have" and if the collateral is not sufficient to cover the amount which he asks for, some other arrangement may be made.

Now, do you know what amount he asked for originally? [711] Does your record show that?

A. No, our records only show the amount given to him.

Mr. Palmer: Haven't you an application for a loan before you?

The Witness: Yes.

Mr. Palmer: And what was the application for a loan for?

The Witness: In the amount of \$132.66.

Mr. Palmer: \$132.66?

The Witness: That's correct.

Q. (By Mr. Sokol) That means simply that that is all the bank would loan on the automobile; is that right?

A. No, not necessarily.

Mr. Sokol: That is all.

(Testimony of Harry A. Haas.)

Redirect Examination

Q. (By Mr. Palmer) The application was for \$132.66? A. Yes, sir.

Q. How did it happen that the loan was made for \$165?

A. The addition of insurance and interest.

Mr. Palmer: I see. That is all.

Mr. Sokol: That is all.

Trial Examiner Whittemore: That is all.

Mr. Palmer: Oh, just one moment.

Q. (By Mr. Palmer) What was the date of the payment of the \$45 note?

A. What do you mean, the date of the payment?
[712]

Q. The final payment on it?

A. August 19, 1938.

Q. What was the final payment made at that time? A. \$25.

Mr. Sokol: The final payment on what, on the previous loan?

The Witness: On the \$45 loan.

Mr. Palmer: That is all.

The Witness: Pardon me, your Honor. Is it necessary for me to remain?

Trial Examiner Whittemore: I think not.

Mr. Palmer: No. You are allowed to take all your records.

The Witness: Thank you very much.

Mr. Sokol: Would the Examiner want—I don't believe that any rebuttal is necessary—but I think

(Testimony of Harry A. Haas.)

there has been an implication left in the record, in that Mr. Lugoff testified that he got \$300 from the Bank of America, and I can put Mr. Lugoff on on this phase of it right now, if you desire.

Trial Examiner Whittemore: Why don't you wait until they rest?

Mr. Palmer: We object and suggest that we take it in order. The respondent is putting in its case now.

Trial Examiner Whittemore: If you think there is any implication in the record, you can straighten it out later.

Mr. Sokol: Very well. [713]

T. HARWOOD YOUNG,

a witness recalled by and on behalf of the respondent, having been previously sworn, was examined and testified as follows:

Direct Examination (Continued)

Q. (By Mr. Palmer) Mr. Young, do you recall an occasion in August 1938 to Mr. Lugoff coming into my office in reference to his discharge by Mr. Tobin? A. Yes.

Q. Did Mr. Lugoff at that time ask us to pay off an indebtedness of \$300 of his?

A. I don't have any recollection of it at that time.

(Testimony of T. Harwood Young.)

Q. Did he make any mention of a \$300 bank loan?

A. Not of any indebtedness that I know of, no.

Q. Did he mention the sum of \$300 at all?

A. Not to my recollection.

Q. Do you recall what was said at that time?

A. Mr. Lugoff said that he felt that an injustice had been done in reinstating five people, I believe it was, and letting him go, when he had stayed on during the strike. That was the substance of it. He thought that he should have been kept [714] on.

Q. And after his conversation he was reinstated?

A. That's right.

Mr. Palmer: That is all.

Cross Examination

Q. (By Mr. Sokol) 1937 was a banner year for the paper, wasn't it, in revenue?

A. I couldn't say, without the records.

Q. You have heard Mr. Tobin's statement about classified being very high that year? Don't you know that it was the biggest year for revenue?

Mr. Palmer: Let me ask: Did Mr. Tobin testify to that? The figures are here before the Court.

Mr. Sokol: I will withdraw that question.

Q. (By Mr. Sokol) What is your best recollection as to what was the best year since 1935?

A. I wouldn't want to speak from recollection.

Q. Well, you are the business manager of the paper. What is your best judgment on that?

(Testimony of T. Harwood Young.)

A. I would say it would go back to '29, possibly.

Q. I am talking since 1935. What has been the best year in revenue since 1935?

A. Well, I would say 1937 probably, but I am not in a position to say exactly without the records.

Q. Were you discharging Mr. Lugoff on account of economy in [715] August, 1938? Was his first discharge by Mr. Tobin on account of economy?

A. For a matter of production. I would say more a matter of attitude and production of the type of salesman. [716]

Q. You discharged both Guild people and non-Guild people, didn't you?

A. On what date?

Q. Since the strike? A. Yes.

Q. All right. Now, what non-Guild people did you discharge?

A. Well, there has been—as far as I know Moulin was not [719] a Guild member. As far as I know, Gilman was not a Guild member.

Q. Fisher was a Guild member, is that right?

A. That seemed to be the case. I don't know of my own knowledge that he was.

Q. Now, as to Moulin, you tried to get him another job, didn't you? A. Yes.

Q. After he was fired? A. Yes.

Q. And Gilman, you tried to get him another job? A. How is that?

(Testimony of T. Harwood Young.)

Q. You tried to get Gilman another job?

A. No, no.

Q. Do you know that the Judge tried to get him another job?

A. That may be. I am not aware of that.

Mr. Palmer: There has been no testimony on that.

Q. (By Mr. Sokol) Did you try to get Mr. Fisher another job?

A. I spoke to him about it, and he refused me rather abruptly as to anything of that sort.

Q. You spoke to him about what?

A. If I could be of any assistance in other organizations, and he rather abruptly refused it.

Q. How did you know that Moulin was not a Guild member?

A. I just said a moment ago, "as far as I know." I *don't* [720] *whether* he was or was not a Guild member.

Q. What leads you to the impression that he was not a Guild member?

A. Well, he was active in the work, on his work in the office during the strike, and I never saw him in any negotiation meetings.

Q. Does the same apply to Gilman?

A. Yes, I think so, in general.

Q. Then how about Fisher? He didn't strike and he didn't negotiate either, did he?

A. He attended negotiation meetings.

(Testimony of T. Harwood Young.)

Q. When?

A. I couldn't fix dates, but I saw him in a negotiation meeting.

Q. Can you name any specific date when Fisher attended any negotiation meeting, or can you tell us what the subject was?

A. I couldn't fix a date of a negotiation meeting, no.

Q. You mean when Fisher, when his complaint was registered, or when a complaint was registered about Fisher's discharge?

A. It might have been.

Q. Did Mr. Palmer ever instruct you to tell the staff anything about how to handle these union matters, or what part the staff was to play in that?

A. Well, he would generally issue instructions that he had himself, if he had an instruction. [721]

Q. He would issue them in writing?

A. Yes, I think in the main, and I am not quite clear as to your question.

Q. Well, did Mr. Palmer ever tell you what position you should take in regard to the organization of the employees in a labor organization?

A. Oh, that has been a fixed policy ever since I have been there, as to labor matters.

Q. When did he tell you that?

A. That has always been the position, that the matter of union membership or not was a matter of an individual employee's concern, ever since I

(Testimony of T. Harwood Young.)

have been there, and not a matter for us to enter into any determination of it.

Mr. Sokol: My question was—I move to strike that as not responsive.

Mr. Sargent: If the Court please, he asked for general instructions.

Mr. Palmer: And it is quite responsive.

Trial Examiner Whittemore: No, his question was the first time he learned of it. Can you answer the question? When did you first learn it?

Mr. Palmer: Learned what, your Honor?

Trial Examiner Whittemore: What the policy of the company was.

Mr. Sokol: Learned what the policy of the company was. [722] Let's get down to that.

You say it was in 1920?

The Witness: Well, in 1921 I had known that, I had been there a year, and prior to that no question had ever come up, and I knew it from that time on.

Q. (By Mr. Sokol) Did any question come up after that time?

A. What kind of a question?

Q. Concerning the right of any employee to join a labor organization?

A. There never *had any* change in the position from that time on.

Q. Then there was no occasion for it to come up after that; is that right?

(Testimony of T. Harwood Young.)

A. Well, I am just answering the question as to what the policy was.

Q. Let me make it very direct. Did Mr. Palmer ever give you any further instructions after 1921 with respect to the right of employees to join labor organizations?

A. I would have to answer that this way: Not by fixing a specific date, but the answer to that question always was the same. Does that answer?

Mr. Palmer: Always was what?

Mr. Sokol: Just a moment.

The Witness: Just that——

Mr. Sokol: Wait. I am asking the question. Mr. Palmer [723] isn't.

Trial Examiner Whittemore: Now, let the reporter read the question.

(The question was read.)

The Witness: The question—probably I could cite it this way: In office bulletins, which was an instruction generally that employees——

Q. (By Mr. Sokol) What office bulletins?

A. "Office Gossip." The employees had such a publication in the plant.

Q. I see.

A. That the policy of the office, and the reason I am not answering directly is I cannot fix any specific date as to a relationship between one person and another——

Q. Do you remember any specific time when

(Testimony of T. Harwood Young.)

Mr. Palmer told his supervisory staff or gave them instructions with respect to the rights of employees?

A. I remember in a meeting with the Typographical people, in which he outlined that position at one time. I am trying to get the specific dates for you in which that question was up, and it was outlined to the employees that it was always their privilege and right to do as they chose. [724]

Q. At any time since 1920 have you ever heard your publisher announce any stand against unions?

Mr. Sokol: Will you read that question?

(The question was read.)

The Witness: No.

Mr. Palmer: That is all.

Recross Examination

Q. (By Mr. Sokol) Have you ever heard any stand with respect to unions?

A. That the employee always had the right to bargain or to be a union member.

Q. When? When did you hear him say that?

A. It was printed in Office Gossip, and in any conversation of a specific case, it would always be the same answer. Trying to fix individual instances—it came up in negotiation meetings, for example, but fixing an individual exact conversation is something else, at a date and a time and an hour. [726]

HARLAN G. PALMER,

a witness called by and on behalf of the Respondent, having been previously duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Sargent) Judge Palmer, at the time when the strike in the summer of 1938 was terminated, were the terms of settlement reduced to writing? A. They were.

Q. And were those terms embodied in what has been called in the case here the strike settlement agreement? A. Thy were.

Q. Have you in your files a copy of that strike settlement agreement?

Mr. Sokol: Well, it is attached to the answer, isn't it? Isn't that it?

The Witness: There it is (indicating).

Q. (By Mr. Sargent) I show you what purports to be an agreement under date of July 30, 1938, between the Citizen- [729] News and the Los Angeles American Newspaper Guild, with the signatures, "Citizen-News Company, a corporation, by Harlan G. Palmer", original signature, and "Los Angeles Newspaper Guild, the local of the American Newspaper Guild by Philip M. Connelly, President," original signature, and ask you whether that is the original of the said settlement agreement?

A. That is our copy of the original. I think at the time that three copies were made. I am not sure,

(Testimony of Harlan G. Palmer.)

but I know at least two copies were made at the time, and that is our copy.

Mr. Sargent: Will counsel stipulate that Exhibit "A" of the answer is a copy of this strike settlement agreement?

Mr. Sokol: If you say it is, I will stipulate.

Mr. Sargent: I assume it is, because the copy was made in my office, but I don't want any question about it. Is it so stipulated?

Mr. Sokol: I will stipulate it is, and the union can check it later against your original.

Mr. Sargent: I don't want there to be any question about it. If there is any question, I would like to have it compared now.

Trial Examiner Whittemore: Compare that with the document now in evidence, which is a part of the answer.

Mr. Sokol: I will compare them later.

Trial Examiner Whittemore: Subject to subsequent check, you will now enter into that stipulation? [730]

Mr. Sokol: It is so stipulated.

Mr. Sargent: And I ask that Exhibit "A"—I offer Exhibit "A" in evidence.

Mr. Sokol: It is in evidence now.

Trial Examiner Whittemore: It is in evidence.

Mr. Sargent: It is because it is a part of the pleadings?

Trial Examiner Whittemore: Yes. I assume you

(Testimony of Harlan G. Palmer.)

offer it now as an exhibit in your behalf as evidence of the fact?

Mr. Sargent: I do, but I would prefer not to put Judge Palmer's original in the record. I would prefer to have it taken from the answer.

Trial Examiner Whittemore: The text is the important thing, and the fabric of the document isn't the question. It is the text that is the question.

Mr. Sargent: Well, I now offer Exhibit "A" of the answer in evidence as being an exact copy of the original of the strike settlement agreement.

Trial Examiner Whittemore: It isn't necessary. The stipulation covers that.

Mr. Sargent: It is so stipulated, Mr. Sokol?

Mr. Sokol: Yes.

Mr. Sargent: All right.

Q. (By Mr. Sargent) At the same time was there entered into a so-called working agreement with the Guild, Judge Palmer?

A. There was the Guild contract, what we called the Guild [731] contract for the current year.

Mr. Sargent: Have you a copy of that agreement here?

Will counsel for the Board stipulate that a copy of that agreement may be received as an exhibit and supplied within the next 24 hours?

Mr. Sokol: Oh, sure.

The Witness: Have you looked over your file, Mr. Sargent, to see if you have it?

(Testimony of Harlan G. Palmer.)

Mr. Sargent: I don't have what resembles an original. I have a scribbled copy.

The Witness: We will have it in the morning, if it isn't here.

Q. (By Mr. Sargent) Did the Guild working agreement have a clause providing against economy dismissals prior to any date? A. Yes, sir.

Q. What was the provision?

A. The provision was that there were to be no dismissals for economy reasons prior to January 1, 1939.

Q. That is right, 1939. How many contracts have you signed with labor unions during the last three years, that is, 1937, 1938, 1939 and 1940?

Mr. Sokol: That is objected to.

Trial Examiner Whittemore: What is the materiality of that? As showing he is an expert in signing contracts? [732]

Q. (By Mr. Sargent) I will put the question this way: How many contracts has the Citizen-News entered into with labor unions during the years 1937, 1938, 1939 and 1940?

Mr. Sokol: The same objection. You have got three in there with the Guild. What more do you need?

Trial Examiner Whittemore. There is only one labor organization involved. I have no objection to your asking him how many he has with the labor organization here involved, but I don't see where

(Testimony of Harlan G. Palmer.)

it would be material in so far as other organizations are concerned.

Q. (By Mr. Sargent) Have contracts been entered into by the Citizen-News and the Guild ever since the working contract with the Guild of July 30, 1938? A. Yes, sir.

Q. Do you know how many have been entered into?

A. Two since the first; a total of three, the current one expiring July 1, 1941.

Q. Do you remember when the current contract was entered into?

A. I believe about August 1st; I think the latter part of July or August 1st. I think we went over July 1st in the negotiations. That is only my recollection.

Q. I show you what purports to be an agreement signed the 31st day of July, 1940, between the Guild and the Hollywood Citizen-News, and ask you if that refreshes your recollection.

(Handing document to witness.) [733]

Mr. Sokol: May we go off the record?

Trial Examiner Whittemore: Off the record.

(Discussion off the record.)

Trial Examiner Whittemore: On the record.

The Witness: Well, that is the copy to which reference has been made and it bears date the 31st day of July, 1940.

Q. (By Mr. Sargent) This contract was entered

(Testimony of Harlan G. Palmer.)

into between the Citizen-News and the Guild following the discharges which are the subject matter of this litigation? A. Yes, sir.

Q. Who provides for the writing or who prepares any statement from the management in the sheet called "Office Gossip" in the Citizen-News?

A. Well, if I have any announcement to make, I prepare that, but, of course, the whole publication is what its name implies, because it contains news which goes to all the employees about other employees in the institution.

Mr. Sargent: Will you mark that, please?

(Thereupon, the document referred to was marked as Respondent's Exhibit 14, for identification.)

Q. (By Mr. Sargent) I show you Respondent's Exhibit 14, for identification, and ask you whether that is a copy of "Office Gossip" under date of April 1, 1940? A. Yes, sir.

Q. What circulation did that copy of "Office Gossip" have? [734]

A. Well, a copy of "Office Gossip" each week is given to each employee of Citizen-News.

Mr. Sokol: Well, the question was as to this particular one.

Q. (By Mr. Sargent) And was that true as to this one? A. As to that one, yes, sir.

Q. Who wrote what is entitled "Notice" as follows:

(Testimony of Harlan G. Palmer.)

“The management has always recognized and will continue to recognize the right of its employees to join or not to join a union”?

A. I did.

Q. Who wrote the sentence:

“The management has always recognized and will continue to recognize the right of its employees to bargain collectively through representatives of its own choosing”?

A. I did.

Q. Who wrote the sentence:

“The management has always recognized and will continue to recognize the right of its employees to express as their own their views in reference to unions”?

A. I did.

Q. Who wrote: “No person, however, has the authority, expressed or implied, to express for the management any view [735] contrary to the above”?

A. I did.

Mr. Sargent: I offer this in evidence.

Mr. Sokol: May I take the witness?

Trial Examiner Whittemore: Yes.

Mr. Sokol: Did you actually see it circulated to anybody?

The Witness: No, Mr. Sokol. I can base my testimony, however, on the general routine and practice of the office.

(Testimony of Harlan G. Palmer.)

Mr. Sokol: I object to it on that ground.

Q. (By Mr. Sargent) What is the general practice and custom of the office with regard to these weekly sheets of "Office Gossip"—entitled "Office Gossip"?

A. That a copy is given to each person with his payroll check.

Q. Was that done, so far as you know, with regard to this exhibit, Respondent's Exhibit 14, for identification?

A. I am just as sure that they got that as that they got their payroll checks, and I think I would have heard about it if they hadn't gotten their payroll checks.

Mr. Sargent: I offer it again.

Trial Examiner Whittemore: Do you withdraw your objection?

Mr. Sokol: Well, since it is entitled "Gossip", I don't think it could be taken seriously.

Q. (By Mr. Sargent) Is "Office Gossip" the title which is given to these sheets which are given out each week? [736]

A. Yes, sir.

Q. This title was no different than any other title for the sheet?

A. No, sir.

Trial Examiner Whittemore: It may be received.

(Thereupon, the document heretofore marked as Respondent's Exhibit 14 for identification, was received in evidence.)

(Testimony of Harlan G. Palmer.)

RESPONDENT'S EXHIBIT 14

OFFICE GOSSIP

Monday, April 1, 1940

NOTICE

The Management has always recognized and will continue to recognize the right of its employees to join or not to join a union.

The Management has always recognized and will continue to recognize the right of its employees to bargain collectively through representatives of its own choosing.

The Management has always recognized and will continue to recognize the right of its employees to express as their own their views in reference to unions.

No person, however, has the authority, expressed or implied, to express for the management any view contrary to the above.

SPECIAL MENTION

Marie Speer broke some kind of a record when she had forty-three rental advertisements last Thursday. This is the largest number of ads to be taken over one station the classified telephone room in one day.

Around the Office: . . . A sprained ankle kept Elvera Lovell at home the latter part of the week. She is expected back today. . . . The Kyrle Barretts

(Testimony of Harlan G. Palmer.)

moved into their new North Hollywood home last week. It is on Morella Street close to Oxnard. . . . Helen Grizzle has been honored with the Presidency of the Hollywood Business and Professional Womens Club. The Club holds its meetings the second Thursday of each month at the Athletic Club. Helen will be installed at the next meeting. . . . Otis Needles hooked five yellowtail with the help of Bert Fisher who fed them most of the time. The two drove to San Diego for the trip. . . . Dick Tobin is taking the train down this Wednesday to try his luck with the rod and reel. . . . Yesterday's storm sort of messed up the alleged fishing party on Lake Henshaw. Large waves tossed the Bill Pardees up on an island when their motor went dead and marooned them until late in the day. Mr. Young and Thayne managed to make it ashore. Everybody got soaked and refuses to talk about the catch. . . . A baby son arrived for the Jim Wagners last Friday morning. This makes it a boy and a girl for them. . . . Ford Dixon, recently in the circulation dept., is to be married this coming Saturday evening at the Wee Kirk of the Heather. . . . The Harold Hubbards barely escaped having their necks badly wrenched when a woman driver plowed into them in the rear. She knocked them clear across the street, smashed the rear end of the car and then gave them the devil for slowing up. . . . Frank Epstein is seriously considering a new home in the valley. Clarence Braxdale is assisting him and the

(Testimony of Harlan G. Palmer.)

deal will probably be made through one of our advertisers. . . . Bob Sunderland was recently seen at Palm Springs with a very lovely blonde. Bob nearly walked on the toes of one of the office department heads but was too busy "honey babying" his sweetie to notice him. The dept. head says Bob sure knows how to give 'em the rush act. . . . Zuma Palmer planes out Saturday evening for Miami where she will spend a two or three week vacation. Viola Swisher will handle the radio feature during her absence. . . . Joe Brown would appreciate it if the office gals would please quit pestering him for the diet that brought the seat of his pants in six inches and his weight down more than 30 pounds. . . . Frank Cornelson bowled a 216 Thursday night. The beauty of it, according to the only eye witness, was that he had either a strike or a spare in every frame. . . . Clarence Braxdale and Pat Killoran were interviewed over K. F. W. B. Saturday night by E. W. Elmore of the George Pepperdine Foundation on what to do and what to see in Hollywood.

Mr. Sargent: Will you mark this, please?

(Thereupon, the document referred to was marked as Respondent's Exhibit 15, for identification.)

Q. (By Mr. Sargent) I show you Respondent's Exhibit 15, for identification, and ask you what that purports to be?

(Handing document to witness.)

(Testimony of Harlan G. Palmer.)

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(Testimony of Harlan G. Palmer.)

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(Testimony of Harlan G. Palmer.)

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Mr. Sargent: Will you mark this, please?

(Thereupon, the document referred to was marked as Respondent's Exhibit 15, for identification.)

Q. (By Mr. Sargent) I show you Respondent's Exhibit 15, for identification, and ask you what that purports to be?

(Handing document to witness.)

(Testimony of Harlan G. Palmer.)

A. Well, that is a copy of a notice under date of November 3, 1939, the original having been signed by me and posted.

Q. And who wrote upon this exhibit:

“The management has not indicated and will not indicate that it favors any particular course of action on the part of its employees toward joining or not joining a union.”?

A. I did.

Q. And on what date was this posted, Judge Palmer?

A. It bears the date of November 3, 1939.

Q. And was that the date of the original notice?

A. Yes, sir. That is a copy of the original notice. [737]

Mr. Sargent: I offer this in evidence.

Trial Examiner Whittemore: Any objection?

Mr. Sokol: No objection.

Trial Examiner Whittemore: Received.

(Thereupon, the document heretofore marked as Respondent's Exhibit 15, for identification, was received in evidence.)

(Testimony of Harlan G. Palmer.)

RESPONDENT'S EXHIBIT 15

Hollywood Citizen-News
1545 North Wilcox Avenue
Hollywood, California
HOLLYWOOD 1234

November 3, 1939

NOTICE

The management has not indicated and will not indicate that it favors any particular course of action on the part of its employees toward joining or not joining a union.

Q. (By Mr. Sargent) At any time prior to or during the negotiations leading up to the signing of the last Guild contract, did you, as the publisher, make any statement to the effect that the paper would close down under any conditions?

A. No, sir.

Q. Did you specifically issue any statement that the paper would close down unless the Guild was more reasonable in its demands?

A. No, sir.

Q. Did it ever come to your attention prior to the discharge of Mr. Lugoff,—did knowledge or information concerning the fact that he had had a talk with a man named Johnny—

A. Badovinic?

Q. —Badovinic come to you?

A. No, sir.

(Testimony of Harlan G. Palmer.)

Q. Prior to the contract being signed between the respondent and the Guild, was there a practice on the part of the paper with regard to severance pay for employees whose services with the paper were terminated? [738] A. Yes, sir.

Q. What was the arrangement?

A. There had been an arrangement in existence for some time, prior to any knowledge we had about the Guild, of severance pay in our establishment on the basis of one week of severance pay for each year of service up to a total of six weeks. [739]

Q. Was Elizabeth Yeaman one of the five employees who had been discharged immediately prior to the strike? A. She was.

Q. And how long was she with the paper after she returned to work?

A. Well, she was with us—she was discharged at the same time Lugoff was discharged. At the time Mr. Lugoff was discharged, there were he and Miss Yeaman only remaining of the five who were covered by the strike settlement agreement.

Mr. Sokol: Schlichter, you mean, and Yeaman?

The Witness: Thank you. Schlichter and Yeaman were the only two remaining in our employ on March 30, 1940 of the five who were named included in the strike settlement agreement.

Q. (By Mr. Sargent) And who were the other three who, you say, at this time had terminated their relationship with the paper?

A. Roger Johnson had previously resigned, Mell

(Testimony of Harlan G. Palmer.)

Scott had previously resigned, and Helen Blair or Helen Blair Thurlby had previously resigned.

Mr. Sokol: They had all resigned prior to the Board's decision?

The Witness: Yes, sir.

Q. (By Mr. Sargent) So that at the time when the Board's decision was made, there only remained of the original five [743] Mr. Schlichter and Miss Yeaman, is that right? A. That's right.

Q. And when did you learn of the Board's decision in the former Guild case?

A. On Thursday before the Saturday of discharge, and it appears that the discharge was Saturday, March 30, so Thursday would have been——

Q. March 28th? A. March 28th.

Q. 1940? A. Yes, sir.

Q. All right. Now, did you have some other totals here which you have been asked to get by the Examiner?

A. Well, I have them, as I say, for all white collar departments. I have them for all of the general office. The Examiner might be interested in that. The classified department, the Examiner might be interested in that, where we have that. We have the display selling department, we have the display office, we have the circulation office, and then a few minor departments like national advertising department, photo department, art department, which would include two or three employees.

Q. Let me ask you one general question, and then I will let the Examiner ask anything he wants

(Testimony of Harlan G. Palmer.)

to. Do your figures show whether or not there has been a general increase or decrease [744] in the number of employees over the period for which these figures were compiled?

A. Well, I have stated that the editorial department, when Miss Killoran transferred from the display to the editorial, the number was 24 before the strike and is now 21.

Taking some of the larger departments, the general office with 28 before the strike and on August 17th, 1940 was 27—21 with six on vacation.

The classified selling department with 11 before the strike and was 11 on August 17, 1940.

The display department with 26 before the strike and on August 17, 1940 was 19.

The circulation before the strike was 32 and on August 17, 1940 was 20.

Q. So that the general characterization is that the number of employees has decreased; is that not true, Judge Palmer?

A. Yes, sir. Our total number in the institution is less at this time.

Q. Certain testimony has been given with regard to Helen Brichoux here, as being the only other Guild member in the classified advertising department. Is Miss Brichoux still with the Citizen-News? A. Yes, sir.

Q. Prior to Mr. Lugoff's discharge, did you know of the circularization by him of either the two petitions or of the [745] contracts similar to a

(Testimony of Harlan G. Palmer.)

Herald contract about which there has been testimony given here?

A. No, sir, I did not.

Q. At the time when you and Mr. Young had a talk with Mr. Lugoff, at the time of his first discharge in the summer of 1938, did Mr. Lugoff suggest to you or Mr. Young in any way that he was being discriminated against by reason of union activities?

A. This was the discharge in August 1938?

Q. That is right. The time after he had been discharged by Mr. Tobin and he came to you and Mr. Young, did he make a claim——

A. No, sir.

Q. Did he at that time make any claim that he was being discriminated against by reason of union activities? A. No, sir.

Q. You said that you had a practice of, following the strike, having your negotiations with the Guild conducted through a negotiator. Will you please indicate to the Examiner your practice with regard to that?

A. Well, it is asking you, as our representative, to carry on the negotiations with the Guild committees.

Q. In other words, when a grievance was made known by the Guild, you would call upon the negotiator to meet with the Guild? [746]

A. Yes, sir.

Q. And the negotiator would come back to you

(Testimony of Harlan G. Palmer.)

with the complaint which was made by the Guild?

A. Yes, sir.

Q. And the negotiator would come back to you with the complaint which was made by the Guild?

A. Yes, sir.

Q. Then you would go over the matter with the negotiator and give an answer to the Guild; is that correct? A. Yes, sir.

Q. What was your reason for conducting this through a negotiator rather than directly yourself?

A. A desire to avoid bitterness between the employer and the employees.

Q. Now, following the discharge of Mr. Lugoff in 1938 by Mr. Tobin, will you indicate the conversation, so far as you can recall, that took place between Mr. Lugoff and yourself and Mr. Young in your office just after the discharge?

A. Mr. Lugoff told me that he had been discharged by Mr. Tobin. Mr. Tobin was then on vacation. At least, he was not present. I am sure he was on vacation. Mr. Lugoff said he had been discharged the Saturday before, and that he wanted to appeal to me on the basis of the injustice of the discharge, that we were taking back five people over which the strike had been waged, whom we had claimed we could do without, whereas he was producing something for the Citizen-News and he thought it wholly unfair to discharge him, who had not been on strike, when those five were being reinstated. [747]

(Testimony of Harlan G. Palmer.)

Q. Was there any conversation at the time, that you can recall, with regard to an indebtedness by Mr. Lugoff? A. No, sir.

Q. Anything else which you can recall with regard to that conversation at this time?

A. No, sir.

Q. What was done as a result of that conversation?

A. I talked the matter over with Mr. Young, told him that I believed that there was merit in Mr. Lugoff's—in the basis of Mr. Lugoff's appeal, that it was unfair to him to lay him off at that time while five others were being reinstated, whom we had laid off prior to him, and that we had agreed that there would be no economy discharges of members of the Guild prior to January 1, 1939, and that I thought it fair that Mr. Lugoff be reinstated.

Q. And it was as a result of that that he was reinstated?

Mr. Sokol: I object to that.

The Witness: I said that he should be—he was to be reinstated. That was my decision. He was reinstated——

Trial Examiner Whittemore: He was reinstated?

The Witness: ——on my orders.

Q. (By Mr. Sargent) When Mr. Schlichter and Mr. Lugoff were discharged on March 30, 1940, how many days elapsed between the receipt of word

(Testimony of Harlan G. Palmer.)

by you that the National Labor Relations Board in Washington had decided that the five discharges were [748] not discriminatory and were not unfair labor practices, and the time of the discharges of these two gentlemen?

A. We received the word in the early morning mail on Thursday.

Q. March 28, 1940?

A. And the discharges were on Saturday afternoon.

Q. And that was Thursday, March 28, 1940?

A. Yes, sir.

Q. And Saturday, March 30, 1940?

A. Yes, sir.

Q. You waited two days before discharging them?

A. Yes, sir.

Q. What was your purpose in waiting that time?

A. Well, I waited two days before discharging Mr. Schlichter and Miss Yeaman. There was nothing to wait on Mr. Lugoff. Mr. Lugoff's decision was reached on the basis of now all my obligation to him certainly had been wiped out, and that I could then sustain the position of the classified manager, expressed earlier, when he was first discharged in 1938.

Q. Did you know at this time whether or not Mr. Lugoff's production had gone up or down?

A. I made inquiry of Mr. Young, asked Mr. Young to ascertain whether or not Mr. Lugoff was doing any better.

(Testimony of Harlan G. Palmer.)

Q. And what was the report?

A. The report was that he was not. [749]

Q. Why did you wait the two days at that time, or the 30th of March, 1940, to discharge Miss Yeaman and Mr. Schlichter?

A. Because I felt that if there were to be resignations, their resignations would probably be in by Saturday noon, the end of that week, and so I waited for the resignations to come in, if they were coming.

Q. Did you receive any intimation from either of them that their resignations would be forthcoming?

A. No, sir.

Q. Upon whose responsibility were the two discharges which I have just referred to of Miss Yeaman and Mr. Schlichter, made?

A. They were all made on my responsibility.

Q. I will ask you whether or not union activity of any kind or nature had anything to do with either of those discharges or with Mr. Lugoff's discharge?

A. It did not.

Q. With regard to any of the three?

A. Not in regard to any of the three.

Q. Had you believed that these employees were assets to the paper and were earning as much as or more than the compensation that they received at the time, would you have kept them?

A. If Mr. Young had reported to me that Mr. Lugoff's production was good, he would have been kept. If Mr. Young had reported to me that Mr.

(Testimony of Harlan G. Palmer.)

Schlichter's services were satisfactory to Mr. Sternberg, he would have been kept. If Mr. [750] Swisher had reported to me that the services of Miss Yeaman, who was then working with Mr. Hardy, were satisfactory, she would have been kept.

Q. Were the reasons given in the letters of discharge of these two employees, Mr. Schlichter and Mr. Lugoff, the reasons given by the heads of the departments to you?

A. The reasons given to the employees were the reasons obtained from the heads of the departments as to why the services of those employees were unsatisfactory. My reasons were, as I say, based upon the decision that I thought the time had come when I was permitted to act.

Q. Now, following these two discharges, did the Guild make a complaint with regard to the discharges of Karl Schlichter, Elizabeth Yeaman and Leonard Lugoff?

A. To the best of my recollection, they did not complain as to Elizabeth Yeaman. I have no recollection of it whatsoever. As to Leonard Lugoff and Karl Schlichter, yes.

Q. I ask you whether or not you recall having asked your negotiator, as your representative, to meet with the Guild on approximately the 10th of April, 1940, to meet with the Guild and to hear their complaint with regard to these two discharges?

A. I would say that was the approximate date. I only know I acted as promptly as I could in get-

(Testimony of Harlan G. Palmer.)

ting the meeting started, when they asked for the meeting. [751]

Q. You also know, do you not, that your negotiator did meet with the Guild and then conferred with you thereafter? A. Yes, sir.

Q. And following that, was a communication addressed by him to the Guild with regard to these two matters?

A. I checked the communication prepared by him.

Q. Yes. Then after several slight changes, was there a communication sent by your negotiator to Miss Daniel, administrative officer of the Guild?

A. I am afraid my negotiator will have to testify to that, unless the other side will stipulate.

Mr. Sargent: Will you mark that, please?

(Thereupon, the document referred to was marked as Respondent's Exhibit 16, for identification.)

Q. (By Mr. Sargent) I show you Respondent's Exhibit 16, for identification——

Mr. Sokol: You are just going to offer, it, aren't you? Why don't you just put it in without foundation?

Mr. Sargent: I think I would rather ask a question or two about it, Mr. Sokol, please.

Q. (By Mr. Sargent) I show you Respondent's Exhibit 16, for identification, and ask you whether or not that was the original of a letter sent by Wil-

(Testimony of Harlan G. Palmer.)

lis Sargent, your negotiator, to Urcel Daniel, of which a copy was sent to you, both under date of April 16, 1940? [752]

(Handing document to witness.)

A. Well, it is now stipulated that this was the document received. I didn't mail it, so I will say, yes, however, on that stipulation, that it was the document mailed.

Mr. Sargent: Replacing the copy which is now in evidence, I will ask if counsel will stipulate that this is the original letter——

Mr. Sokol: So stipulated.

Mr. Sargent: ——received by the Guild, written by me, representing the paper, to Miss Urcel Daniel, representing the Guild, on April 16, 1940.

Mr. Sokol: So stipulated.

Mr. Sargent: I will ask you whether or not——

Mr. Sokol: Now, that is Respondent's Exhibit what?

Trial Examiner Whittemore: 16?

Mr. Sargent: I offer it in evidence now.

Trial Examiner Whittemore: Any objection?

Mr. Sokol: No objection.

Trial Examiner Whittemore: Received.

(Thereupon, the document heretofore marked as Respondent's Exhibit 16 for identification, was received in evidence.)

(Testimony of Harlan G. Palmer.)

RESPONDENT'S EXHIBIT 16

Willis Sargent
Attorney at Law
Title Insurance Building
433 South Spring Street
Los Angeles
Michigan 7434

April 16th, 1940

Miss Urcel Daniel
Administrative Officer
Los Angeles Newspaper
Guild
212 West Third Street
Los Angeles, California

In re: Hollywood Citizen-News

Dear Miss Daniel:

Following our conference last Wednesday at the Hollywood Citizen-News in the late afternoon, I communicated with the management the following day, informing it in detail of the charges and requests of the Guild. Since that time the management and I have had an opportunity of considering each of the matters raised by the Guild and have reached a conclusion with regard to each of them.

(1) With regard to Carl Schlichter, the management denies that he was discharged for Union activity.

(Testimony of Harlan G. Palmer.)

Attention is called to the wording of the strike settlement agreement providing:

“In the event it is finally determined that the five discharged employees, or any of them, were lawfully discharged, those so affected by such determination shall promptly resign or be subject to discharge.”

In this connection the Labor Board held that the discharges were lawful and dismissed the charges relating thereto. There is now no case pending involving these discharges.

The management informs me that Carl Schlichter and Elizabeth Yeaman did not promptly resign, although they had two or three days in which to do so, and that their dismissals were the result of the decision. In the case of Carl Schlichter the management informs me, further, that his services were not satisfactory and that he failed to develop into a valuable assistant to the manager of the National Advertising Department. The request for his reinstatement is therefor denied.

(2) With regard to Leonard Lugoff, I am informed by the management that he was discharged at the end of the 1938 strike; that he appealed for reinstatement on the ground that it was unfair for the management to discharge him when he had not gone out on strike while at the same time it took back five strikers whose services it did not need, and

(Testimony of Harlan G. Palmer.)

that because of his appeal in this regard he was reinstated; that the connection of each of the five persons with the paper has now been terminated; that in the opinion of the management Mr. Lugoff has not been doing as good a job as it believes can, and should be done in the territory assigned to him; that the management believes that the territory justifies earnings sufficient to cover the minimum guarantee and that an agreement had been reached with Mr. Lugoff that if he did not reach the minimum guarantee he would be dismissed; and that Mr. Lugoff's earnings did not cover the minimum guarantee so that both from this viewpoint, as well as that of his earlier appeal for reinstatement, the management sees no reason for continuing his employment. The management denies that Mr. Lugoff's dismissal was by reason of any Guild activity on his part and the request for his reinstatement is denied.

(3) The Guild has protested the employment on the copy desk of a chap referred to by you as Bob Guild and whom you have also referred to as a "strike breaker" two years ago. You have indicated that certain members of the staff have protested to Mr. Swisher with regard to his employment. The management informs me that certain members of the staff have made such protests and the management assumes that certain employees do not like Mr. Guild. It also informs me, on the other hand, that other employees have spoken in

(Testimony of Harlan G. Palmer.)

appreciation of him. The management believes that Mr. Swisher has selected the man who in his judgment gave promise of the best performance for the work to be done, and sees no reason to in any wise change Mr. Swisher's decision. The request of the Guild that Mr. Guild be not retained is therefore denied.

(4) In the same conference the Guild expressed its desire to discuss each of the above matters with the management, specifically mentioning Judge Palmer, Mr. Young and one or two other executives. The management has again informed me that its policy, which has been many times made evident to the Guild by me, is that it believes it to be for the best interests of the paper for its negotiator, rather than for heads of departments and the Publisher, to meet the Guild Committees when differences arise, but that Judge Palmer has indicated on many occasions that he is willing at any convenient time to meet with any of his employees who may feel that they have something which they wish to discuss with him, personally, without the presence of negotiators, either from the Guild or on behalf of the management. This remains the policy of the management, and in view of the same, the management believes it wise not to depart from that policy in the matters discussed in this letter.

If the Guild requests further conferences with the management with regard to any of the above matters, I am authorized and requested by the man-

(Testimony of Harlan G. Palmer.)

agement to state that I shall be available to meet with the Guild at a mutually convenient date. In view of the consideration and thought given to the matters raised by the Guild before the events took place, frankness impels me to state, however, that I seriously doubt whether such conferences would result in any difference in the attitude of the management, but the management will in no wise refuse to meet, through its representative, with the Guild at any mutually convenient time when such a conference is requested by the Guild.

Sincerely,

WILLIS SARGENT

Mr. Sargent: It is stipulated by the Guild, Miss Daniel, is it not, that you received the letter?

Miss Daniel: Yes, sir.

Mr. Sargent: And that it was received a day or so after [753] it was sent on April 16, 1940?

Miss Daniel: As far as I recall, yes, sir.

Q. (By Mr. Sargent) I ask you whether or not Judge Palmer, in that letter there was not set forth, in quotation marks, the clause of the strike settlement agreement, reading:

“In the event it is finally determined that the five discharged employees, or any of them, were lawfully discharged, those so affected by such determination shall promptly resign or be subject to discharge.”

(Testimony of Harlan G. Palmer.)

Was that contained in that letter?

A. Yes, sir.

Q. There is also set forth in the letter that Karl Schlichter and Elizabeth Yeaman did not resign in the two or three days which they had to do so, and that they were dismissed at the end of the two or three day period? A. Yes, sir.

Q. I ask you whether or not the letter did not also contain the statement that:

“In the case of Karl Schlichter the management informs me, further, that his services were not satisfactory and that he failed to develop into a valuable assistant to the manager of the National Advertising Department.”

Was that in the letter, too? [754]

A. Yes, sir. [755]

Q. (By Mr. Sargent) Will you give us your interpretation of the clauses of the strike settlement agreement, Judge?

A. Well, my interpretation of the Board's decision was that the Board dismissed the action so far as the question of the [764] regularity of the discharge of these five employees was concerned. That was the order, as I read the order, dismissing that action. Therefore, there was no action pending, the Board had held it was legal and dismissed the action, and the day the Board signed the order there was no action then, nothing in existence charging us with the unlawful discharge of the five employees.

(Testimony of Harlan G. Palmer.)

Q. And you thought there was nothing to negotiate with the Guild in regard to them?

A. That's right. There was no action. [765]

LEONARD LUGOFF,

a witness recalled by and on behalf of the National Labor Relations Board, having been previously sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Sokol) Mr. Lugoff, did you actually have to borrow \$300 prior to your discharge in August 1938?

A. Yes, sir, I did.

Q. Can you explain the facts that the records of the bank show that you only borrowed \$165 from the bank?

A. Yes. The bank—my wife and I talked it over, and the bank limited me, in the first place, to a sum around that amount, and we borrowed the amount from the bank that we could straighten up with them inside of a year, and then we went outside, from the family, and got the rest. I might add at this [767] time that it was a sick sister in New York, that had suddenly developed cancer, and it was partly the family affair as far as—

Q. Well, anyway, she developed cancer, whether suddenly or otherwise, is that what you mean?

A. I don't know how suddenly. I mean it came to our attention suddenly.

(Testimony of Leonard Lugoff.)

Q. Did you tell the company you borrowed \$300 from the bank?

A. I didn't mean to give that interpretation. I meant I incurred an indebtedness of \$300.

Q. You incurred an indebtedness of \$300?

A. That's right.

Q. With respect to your decline in lineage, in 1937 you had 54,000 some odd lines, and that went down in 1938 and 1939. Now, have you computed the difference between the lineage in 1937 and 1939——

A. Yes.

Q. ——from official records of the company?

A. Yes.

Q. In other words, I have shown you these records, the original records that the company had submitted to me?

A. I have computed these from Mr. Palmer's records.

Q. And that shows a difference of how many lines?

A. A difference between 1937 and 1939 of 19,600 lines.

Q. Now, can you account for that difference?

[768]

A. Yes. In 1937, it was a very good year, but looking at the total lineage gives a person the wrong picture of the territory. It was a very abnormal picture. That is, three accounts dominated the 1939 lineage.

Q. Now, I show you here the original records

(Testimony of Leonard Lugoff.)

of the company. I do not find it necessary to put them in evidence.

Mr. Palmer: I think the witness made an error when he said "three accounts dominated the 1939" figures.

Mr. Sokol: 1937?

The Witness: 1937.

Q. (By Mr. Sokol) Now, were those the Dalton Auto Loan, Boulevard Loan and the Donaldson Insurance Company? A. Yes, sir.

Q. These are the original records before you of these three companies? A. Yes, sir.

Q. Have you checked the lineage for those companies, which they gave you in 1937?

A. Yes, I have.

Q. What was the total lineage you got from those three companies?

A. The total lineage I got from those three companies was 14,476 lines.

Q. Now, what happened to that lineage of those three companies after 1937? [769]

A. Well, by March 1, 1938 they had ceased advertising for—well, all but one permanently, and then of the three accounts two accounts were handled by the downtown solicitors; that is, though the offices still remained in Hollywood, the advertising was placed downtown, and it was under the jurisdiction of the downtown salesmen. The only one remaining was Boulevard Loan, and they, neither through my efforts nor the phone room, came back into the paper.

(Testimony of Leonard Lugoff.)

Q. "Neither" did you say?

A. Either through the phone room.

Q. These accounts ran in 1937 every single day.

Mr. Sokol: That is all.

Mr. Palmer: Mr. Lugoff, I have a few questions.

May I have the ledger sheets?

(The documents referred to were handed to counsel.)

Cross Examination

Q. (By Mr. Palmer) From whom did you borrow the difference between \$165 and the \$300, Mr. Lugoff?

A. From my brother-in-law.

Q. What is his name? A. Harry Gold.

Q. G-o-l-d? A. That's right.

Q. And where does he reside?

A. 107th and Main Street, South Main. [770]

Q. 107th and Main? A. That's right.

Q. What is his business?

A. He is in the tire business.

Q. How much did you get from him?

A. \$150.

Q. Did you get that by check?

A. I don't know. I don't believe so. My wife got it.

Q. Your wife got it? A. Yes, sir.

Q. You didn't ask Harry Gold yourself?

A. No, I did not.

Q. Your wife got it from Harry Gold?

A. That's correct.

Q. Is he her brother?

A. He is her brother.

(Testimony of Leonard Lugoff.)

Q. Was the money deposited in any bank account?

A. No. No, she took it to New York with her.

Q. Was the money obtained from the Bank of America deposited in any bank account?

A. No.

Q. Now, in reference to these three accounts that you lost some time in 1938, which two accounts were thereafter handled from downtown?

A. Well, the only one that broke after that was Donaldson, [771] and that was handled by Marjorie McKellar from the downtown office.

Q. Well, you said two accounts were handled downtown.

A. I mean, that they were under the jurisdiction—I would like to make that clear—under the jurisdiction of the downtown sales people.

Q. What was the other account besides Donaldson's?

A. Dalton's. [772]

Q. Did Mr. Tobin tell you that you weren't to go downtown to try to sell the Auto Bank Loan Company?

A. Well, it was understood we had a territory.

Q. Just answer yes or no.

A. No, Mr. Tobin didn't tell me nothing.

Q. Just answer whether he did. Were there any other accounts running in 1937, Mr. Lugoff, that are not running now? Any other classified accounts?

A. I imagine.

(Testimony of Leonard Lugoff.)

Mr. Sokol: That is calling for the conclusion of the witness.

Q. (By Mr. Palmer) If you know.

A. I imagine there were a lot of accounts in 1937 that aren't running now.

Q. As a matter of fact, in the classified business, some accounts will run one month that didn't run the previous month? A. Correct.

Q. And the solicitor's work is to constantly be driving for new business? A. That's correct.

[774]

Q. Is that correct? A. That's right.

Q. To get new accounts to offset accounts they didn't have previously and haven't got at that time?

A. That's right.

Mr. Palmer: That is all. [775]

RESPONDENT'S EXHIBIT 17-A

AGREEMENT

This Agreement, made and entered into at Los Angeles, California, this 31st day of July, 1940, by and between The Citizen-News Company, hereinafter referred to as the "Publisher", and the Los Angeles Newspaper Guild, a local, chartered by the American Newspaper Guild, hereinafter referred to as the "Guild", acting for itself and on behalf of all the employees in the Editorial Department of

The Hollywood Citizen-News and Hollywood Advertiser, except as hereinafter provided,

Witnesseth:

That in consideration of the mutual promises and agreements hereinafter agreed upon, It Is Understood and Agreed by and between the Publisher and the Guild, as follows:

Article I—The Publisher does hereby recognize the Guild as the authorized agency of its Editorial employees for purposes of collective bargaining, except that with regard to any matters not covered by this Agreement, it is agreed that an individual employee and the Publisher shall have the right to bargain with each other.

Article II—The Publisher retains full power and discretion, save as limited or prohibited by law, to employ or dismiss employees, including that to determine competency or to peremptorily discharge any employee, and also as to the number to be employed in any department, or as to the duties of each, and may merge, increase, reduce or eliminate departments and transfer any employee from one department to another without violation in letter or spirit of any portion of this Agreement.

Article III—Classification

1. The Editor, Managing Editor and City Editor shall be excluded from the provisions of this Agreement. Also excluded shall be part-time employees and correspondents who individually average less than twenty (20) hours per week in the employ of

the Publisher, and employees of the Advertising and Promotion Departments who may, in the course of their regular duties and assignments in those departments, handle news or publicity items or photographic material.

Notwithstanding the provisions of Article II, no position on the Editorial Department payroll at the date of entering into this Agreement shall be transferred to any other department payroll during the life of this Agreement.

2. In the application of this Agreement, all employees shall be divided into the following classifications:

(a) Reporters, Desk Men, Editorial Writers, Artists, Rewrite Men, Copy Readers and Photographers.

(b) Office Boys.

Article IV—Minimum Salaries

1. Employees in the foregoing classifications shall receive a weekly rate of pay of not less than that set forth as follows:

(a) Less than one year's experience.....	\$20.00
Over one year.....	25.00
Over two years.....	30.00
Over three years.....	35.00
Over four years.....	40.00
Over five years.....	45.00
(b) Less than one year.....	16.50
Over one year.....	18.00
Over two years.....	20.00

2. The basis for computing experience, within the meaning of the above, shall be employment cal-

culated upon the basis of time spent on the staffs of daily newspapers of general circulation of five thousand (5,000) or more, or the bureaus of established national, or local news or photo services, in the same line of employment for which said employee is hired by the Publisher.

3. The present salary of any employee in excess of the minimums herein established shall not be reduced during the term of this Agreement.

Article V—Five Day Week

Publisher agrees to the five-day, forty-hour week for editorial employees. A working day shall consist of eight (8) hours within a nine (9) hour spread, except that employees assigned to the Drama and Sports Departments may work eight (8) hours per day within such a spread as their duties may require. All employees shall be entitled to reasonable time off for midday lunch or for other meals in those cases where the employee reports for duty before 8:00 o'clock, A. M., or works later than 6:00 o'clock, P. M. It is agreed that time off for meals, as herein provided, shall not be included within the working day.

Article VI—Overtime

1. If an employee work more than forty (40) hours but not more than forty-two (42) hours in any work week, such overtime shall be compensated for by the allowance of equivalent time off in blocks of not less than eight (8) hours or by the allowance of time-and-one-half off in blocks of not less than

three (3) hours after one o'clock, P. M. on Saturdays. Such overtime shall be liquidated within three (3) months of its accumulation. Any such overtime due an employee upon his dismissal, resignation, or death shall be paid in cash at time-and-one-half.

If an employee work more than forty-two (42) hours in any work week the first two (2) hours of overtime (in excess of forty (40) hours) shall be compensated for as provided herein and all overtime in excess of forty-two (42) hours shall be paid for in cash at the rate of time-and-one-half.

2. If an employee has not taken his accumulated overtime prior to the termination of his employment with the Publisher, he shall be compensated for such overtime in cash at that time. In the event of the death of an employee, the Publisher shall pay to his estate, in cash, an amount equal to the amount of overtime, at time and a half, to which the employee would have been entitled, and likewise in the event of the resignation of an employee, the Publisher shall pay to him in cash an amount equal to the amount of the overtime at time and one-half. Reasonable overtime may be added to the vacation period of the employee.

3. In carrying out the provisions of this Article, it is agreed that the Publisher shall cause a record of all the overtime to be kept and that each employee who is required to work overtime shall obtain from the Publisher or his representative who is responsible for the assignment, a memorandum showing the date and the number of hours due him.

Article VII—Severance Indemnity

1. Upon dismissal, an employee, upon request, shall receive a written notice from the Publisher or his agent stating the reason or grounds for dismissal.

2. An employee who is dismissed after six (6) months service, except as hereinafter provided, shall receive severance indemnity of one (1) week's pay for each year of service, up to and including five (5) years, and in addition thereto, one (1) week's pay for each thirty (30) weeks of service thereafter, but the total severance indemnity shall not exceed a maximum of twenty-six (26) weeks' pay. All loans, advances or debts to the *Publish* shall be deducted from any sums due an employee upon his dismissal. No severance indemnity shall be paid to an employee who resigns, or who shall have affirmatively brought about his discharge in order to collect severance pay.

3. Length of service for computation of severance pay shall be deemed to include only full-time service, and years of service shall be deemed to include only the total consecutive years the employee was employed on the Hollywood Citizen-News and The Hollywood Citizen.

4. Leaves of absence, granted by the Publisher, and the period of the 1938 Guild strike, shall not count as breaks in continuous service, although the time spent on such leaves, and such strike, shall not be considered service time.

Article VIII—Vacations

1. Employees shall be entitled to an annual vacation of two (2) weeks with full pay after one (1) year of service, the length of service to be computed from July 1st of the preceding year to July 1st of the current year. Where the employee has not been employed a full year, he shall be entitled to a vacation, the duration of which shall be computed by allowing him one-sixth ($1/6$ th) of a six-day week for each month of employment—for example, ten (10) months of service would entitle an employee to a vacation of one and two-thirds ($1-2/3$ rd) weeks.

2. An employee shall not be required to accept a vacation any time except between May 15th and September 30th.

3. Upon acceptance of an employee's resignation he shall be paid a vacation allowance proportionate to the amount of time worked by him since his last vacation to a full year's work.

Article IX—Sick Leave

1. Sick leave shall be allowed on the same basis as vacations, except that the Publisher, in his discretion, may extend the period in any individual case.

2. No deduction from overtime already credited or to be credited to the employee shall be made for sick leave allowed by the Publisher.

Article X—Expenses and Equipment

1. Necessary working equipment is to be supplied by the Publisher, except where the employee

may desire to use his own equipment. Employees using their own cars on assignments shall be allowed mileage at the rate of seven (7¢) cents per mile for the first forty (40) miles in any one week, plus such additional compensation for mileage over forty (40) miles in any one week as may be individually agreed upon.

2. The Publisher shall reimburse employees for any damages to their clothing incurred in the course of their employment without negligence on their part. The Publisher shall pay for the reasonable cost of meals when employees are working overtime by assignment. In the event of the death or resignation or discharge of an employee, all unpaid expenses to which the employee would otherwise be entitled by the Article shall be paid to said employee's estate or to the employee if he resigns or is discharged.

Article XI—Miscellaneous

1. **Syndicate Rights.** When the management sells the product of an employee for publication outside The Citizen-News Company organization, a mutually agreeable payment shall be made to the employee in addition to his weekly wage.

2. **Guarantees.** There shall be no reduction in the wage scale of any employee as the result of this agreement or of the negotiations leading to its execution, but this shall not be construed to limit the powers of the Publisher, as set forth in Article II, or otherwise, herein.

3. Outside Activities. Employees of the Publisher shall be free to engage in any activities on their own time which do not consist of services performed for publications in direct competition with the Publisher, provided that without permission, no employee shall exploit his connection with the Publisher in the course of such activities.

4. The Publisher agrees not to have or enter into any agreement with any other employer, binding such other employer not to offer or give employment to employees of the Publisher.

5. The Publisher agrees that no employee shall be required to have published under his own name any material containing an expression of opinion not in conformity with his own opinions, nor shall the by-line of any employee be used without his consent.

6. The Guild may post notices of its meetings upon the bulletin board now maintained in the editorial offices of the Publisher, collect dues from its members on the premises of the Publisher, and hold Unit meetings on the premises of the Publisher, at times when the employees attending the same are off duty, but such meetings are to be held under such circumstances as do not interfere with the work of other employees.

7. In the event that the United States of America should become involved in war, the management agrees to extend a leave of absence to any employee who shall serve in any portion of the armed forces of the United States, or their auxiliaries during said

war. Upon his or her return from such service, after giving reasonable notice to the management of the desire of the employee to return to work with the newspaper, the management agrees that said employee shall be taken back into his or her old position or into a similar position, subject to the terms and conditions of any contract then in effect between the parties hereto. Time of such war service shall not be computed in determining the employee's severance pay. The accumulated severance pay to which he or she would otherwise be entitled shall be paid to his or her estate in the event of his or her death while in said service. In the event that he or she should become physically or mentally incapacitated by reason of such service, then such accumulated severance pay shall be paid directly to or for the employee.

8. This Agreement is to become effective upon execution of both parties hereto and is to continue up to and including the 30th day of June, 1941, with the right and privilege on the part of either the Guild or the Publisher at any time within sixty (60) days prior to that date to institute negotiations for a new Agreement to take effect at the expiration of this Agreement.

THE CITIZEN NEWS COMPANY,
a corporation

By HARLAN G. PALMER

President

By WILLIS SARGENT

Attorney for the corporation

LOS ANGELES NEWSPAPER
GUILD, a Local of the Ameri-
can Newspaper Guild
By H. R. WASHBURNE
President
URCEL DANIEL,
Administrative Officer

RESPONDENT'S EXHIBIT 17-B
AGREEMENT

This Agreement, made and entered into at Los Angeles, California, this 31st day of January, 1940, by and between The Citizen-News Company, hereinafter referred to as the "Publisher", and the Los Angeles Newspaper Guild, a local, chartered by the American Newspaper Guild, hereinafter referred to as the "Guild", acting for itself and on behalf of all the employees in the Editorial Department of The Hollywood Citizen-News and Hollywood Advertiser, except as hereinafter provided,

Witnesseth:

That in consideration of the mutual promises and agreements hereinafter agreed upon, It Is Understood and Agreed by and between the Publisher and the Guild, as follows:

Article I—The Publisher does hereby recognize the Guild as the authorized agency of its editorial employees for purposes of collective bargaining, except that with regard to any matters not covered by this Agreement, it is agreed that an individual em-

ployee and the Publisher shall have the right to bargain with each other.

Article II—The Publisher retains full power and discretion, save as limited or prohibited by law, to employ or dismiss employees, including that to determine competency or to peremptorily discharge any employee, and also as to the number to be employed in any department, or as to the duties of each, and may merge, increase, reduce or eliminate departments and transfer any employee from one department to another without violation in letter or spirit of any portion of this Agreement.

Article III—Classification

1. The Editor, Managing Editor and City Editor shall be excluded from the provisions of this Agreement. Also excluded shall be part-time employees and correspondents who individually average less than twenty (20) hours per week in the employ of the Publisher, and employees of the Advertising and Promotion Departments who may, in the course of their regular duties and assignments in those departments, handle news or publicity items or photographic material.

Notwithstanding the provisions of Article II, no position on the Editorial Department payroll at the date of entering into this Agreement shall be transferred to any other department payroll during the life of this Agreement.

2. In the application of this Agreement, all employees shall be divided into the following classifications:

(a) Reporters, Desk Men, Editorial Writers, Artists, Rewrite Men, Copy Readers and Photographers.

(b) Office Boys.

Article IV—Minimum Salaries

1. Employees in the foregoing classifications shall receive a weekly rate of pay of not less than that set forth as follows:

(a). Less than one year's experience.....	\$20.00
Over one year.....	25.00
Over two years.....	30.00
Over three years.....	35.00
Over four years.....	40.00
Over five years.....	45.00
(b) Less than one year.....	16.50
Over one year.....	18.00
Over two years.....	20.00

2. The basis for computing experience, within the meaning of the above, shall be employment calculated upon the basis of time spent on the staffs of daily newspapers of general circulation of five thousand (5,000) or more, or the bureaus of established national, or local news or photo services, in the same line of employment for which said employee is hired by the Publisher.

3. The present salary of any employee in excess of the minimums herein established shall not be reduced during the term of this agreement.

Article V—Five Day Week

Publisher agrees to the five-day, forty-hour week for editorial employees. A working day shall consist of eight (8) hours within a nine (9) hour spread,

except that employees assigned to the Drama and Sports Departments may work eight (8) hours per day within such a spread as their duties may require. All employees shall be entitled to reasonable time off for midday lunch or for other meals in those cases where the employee reports for duty before 8:00 o'clock, A. M., or works later than 6:00 o'clock, P. M. It is agreed that time off for meals, as herein provided, shall not be included within the working day.

Article VI—Overtime

1. If an employee work more than forty (40) hours but not more than forty-two (42) hours in any work week, such overtime shall be compensated for by the allowance of equivalent time off in blocks of not less than eight (8) hours or by the allowance of time-and-one-half off in blocks of not less than three (3) hours after one o'clock, P. M. on Saturdays. Such overtime shall be liquidated within three (3) months of its accumulation. Any such overtime due an employee upon his dismissal, resignation, or death shall be paid in cash at time-and-one-half.

If an employee work more than forty-two (42) hours in any work week the first two (2) hours of overtime (in excess of forty (40) hours) shall be compensated for as provided herein and all overtime in excess of forty-two (42) hours shall be paid for in cash at the rate of time-and-one-half.

2. If an employee has not taken his accumulated overtime prior to the termination of his employ-

ment with the Publisher, he shall be compensated for such overtime in cash at that time. In the event of the death of an employee, the Publisher shall pay to his estate, in cash, an amount equal to the amount of overtime, at time and a half, to which the employee would have been entitled, and likewise in the event of the resignation of an employee, the Publisher shall pay to him in cash an amount equal to the amount of the overtime at time and one-half. Reasonable overtime may be added to the vacation period of the employee.

3. In carrying out the provisions of this Article, it is agreed that the Publisher shall cause a record of all the overtime to be kept and that each employee who is required to work overtime shall obtain from the Publisher or his representative who is responsible for the assignment, a memorandum showing the date and the number of hours due him.

Article VII—Severance Indemnity

1. Upon dismissal, an employee, upon request, shall receive a written notice from the Publisher or his agent stating the reason or grounds for dismissal.

2. An employee who is dismissed after six (6) months service, except as hereinafter provided, shall receive severance indemnity of one (1) week's pay for each year of service, up to and including five (5) years, and in addition thereto, one (1) week's pay for each thirty (30) weeks of service thereafter, but the total severance indemnity shall not exceed a maximum of twenty-six (26) weeks' pay. All loans,

advances or debts to the Publisher shall be deducted from any sums due an employee upon his dismissal. No severance indemnity shall be paid to an employee who resigns or who shall have affirmatively brought about his discharge in order to collect severance pay.

3. Length of service for computation of severance pay shall be deemed to include only full-time service, and years of service shall be deemed to include only the total consecutive years the employee was employed on the Hollywood Citizen-News and The Hollywood Citizen.

4. Leaves of absence, granted by the Publisher, and the period of the 1938 Guild strike, shall not count as breaks in continuous service, although the time spent on such leaves, and such strike, shall not be considered service time.

Article VIII—Vacations

1. Employees shall be entitled to an annual vacation of two (2) weeks with full pay after one (1) year of service, the length of service to be computed from July 1st of the preceding year to July 1st of the current year. Where the employee has not been employed a full year, he shall be entitled to a vacation, the duration of which shall be computed by allowing him one-sixth ($1/6$) of a six-day week for each month of employment—for example, ten (10) months of service would entitle an employee to a vacation of one and two-thirds ($1-2/3$) weeks.

2. An employee shall not be required to accept a vacation any time except between May 15th and September 30th.

3. Upon acceptance of an employee's resignation he shall be paid a vacation allowance proportionate to the amount of time worked by him since his last vacation to a full year's work.

Article IX—Sick Leave

1. Sick leave shall be allowed on the same basis as vacations, except that the Publisher, in his discretion, may extend the period in any individual case.

2. No deduction from overtime already credited or to be credited to the employee shall be made for sick leave allowed by the Publisher.

Article X—Expenses and Equipment

1. Necessary working equipment is to be supplied by the Publisher, except where the employee may desire to use his own equipment. Employees using their own cars on assignments shall be allowed mileage at the rate of seven (7¢) cents per mile for the first forty (40) miles in any one week, plus such additional compensation for mileage over forty (40) miles in any one week as may be individually agreed upon.

2. The Publisher shall reimburse employees for any damages to their clothing incurred in the course of their employment without negligence on their part. The Publisher shall pay for the reasonable cost of meals when employees are working overtime

by assignment. In the event of the death or resignation or discharge of an employee, all unpaid expenses to which the employee would otherwise be entitled by the Article shall be paid to said employee's estate or to the employee if he resigns or is discharged.

Article XI—Miscellaneous

1. **Syndicate Rights.** When the management sells the product of an employee for publication outside The Citizen-News Company organization, a mutually agreeable payment shall be made to the employee in addition to his weekly wage.

2. **Guarantees.** There shall be no reduction in the wage scale of any employee as the result of this agreement or of the negotiations leading to its execution, but this shall not be construed to limit the powers of the Publisher, as set forth in Article II, or otherwise, herein.

3. **Outside Activities.** Employees of the Publisher shall be free to engage in any activities on their own time which do not consist of services performed for publications in direct competition with the Publisher, provided that without permission, no employee shall exploit his connection with the Publisher in the course of such activities.

4. The Publisher agrees not to have or enter into any agreement with any other employer, binding such other employer not to offer or give employment to employees of the Publisher.

5. The Publisher agrees that no employee shall

be required to have published under his own name any material containing an expression of opinion not in conformity with his own opinions, nor shall the by-line of any employee be used without his consent.

6. The Guild may post notices of its meetings upon the bulletin board now maintained in the editorial offices of the Publisher, collect dues from its members on the premises of the Publisher, and hold Unit meetings on the premises of the Publisher, at times when the employees attending the same are off duty, but such meetings are to be held under such circumstances as do not interfere with the work of other employees.

7. In the event that the United States of America should become involved in war, the management agrees to extend a leave of absence to any employee who shall serve in any portion of the armed forces of the United States or their auxiliaries during said war. Upon his or her return from such service, after giving reasonable notice to the management of the desire of the employee to return to work with the newspaper, the management agrees that said employee shall be taken back into his old position or into a similar position, subject to the terms and conditions of any contract then in effect between the parties hereto. Time of such war service shall not be computed in determining the employee's severance pay. The accumulated severance pay to which he or she would otherwise be entitled shall be paid

to his or her estate in the event of his or her death while in said service. In the event that he or she should become physically or mentally incapacitated by reason of such service, then such accumulated severance pay shall be paid directly to or for the employee.

8. This agreement is to become effective upon execution of both parties hereto and is to continue up to and including June 30th, 1940, with the right and privilege on the part of either the Guild or the Publisher at any time within sixty (60) days prior to that date to institute negotiations for a new agreement to take effect at the expiration of this Agreement.

THE CITIZEN NEWS COMPANY,
a corporation

By HARLAN G. PALMER
President

By WILLIS SARGENT
Attorney for the corporation

LOS ANGELES NEWSPAPER
GUILD, a Local of the Amer-
ican Newspaper Guild

By TOM O'CONNOR
President

RESPONDENT'S EXHIBIT 17-C
AGREEMENT

This Agreement, made and entered into at Los Angeles, California, this 30th day of July, 1938, by and between The Citizen-News Company (hereinafter referred to as "the Publisher") and the Los Angeles Newspaper Guild, a local, chartered by the American Newspaper Guild, hereinafter referred to as "the Guild", acting for itself and on behalf of all the employes in the Editorial Department of The Hollywood Citizen-News and Hollywood Advertiser, except as hereinafter provided.

Witnesseth:

That in Consideration of the mutual promises and agreements hereinafter agreed upon, It Is Understood and Agreed by and between the Publisher and the Guild, as follows:

Article I—The Publisher does hereby recognize the Guild as the authorized agency of its editorial employes for purposes of collective bargaining, except that with regard to any matters not covered by this agreement, it is agreed that an individual employe and the Publisher shall have the right to bargain with each other.

Article II—The Publisher retains full power and discretion, save as limited or prohibited by law, to employ or dismiss employees, including that to determine competency or to peremptorily discharge any employe, and also as to the number to be employed in any department, or as to the duties of

each, and may merge, increase, reduce or eliminate departments and transfer any employe from one department to another without violation in letter or spirit of any portion of this agreement. Provided, however, that there shall be no discharge of any of the strikers for economy reasons prior to January 1, 1939.

Article III—Classification

1. The Editor, Managing Editor and City Editor shall be excluded from the provisions of this agreement. Also excluded shall be part-time employes and correspondents who individually average less than 20 hours per week in the employ of the Publisher, and employees of the Advertising and Promotion Departments who may, in the course of their regular duties and assignments in those departments, handle news or publicity items or photographic material.

Notwithstanding the provisions of Article II, no position on the Editorial Department payroll at the date of entering into this agreement shall be transferred to any other department payroll during the life of this agreement.

2. In the application of this agreement, all employes shall be divided into the following classifications:

(a) Reporters, Desk Men, Editorial Writers, Artists, Rewrite Men, Copy Readers and Photographers.

(b) Office Boys.

Article IV—Minimum Salaries

1. Employes in the foregoing classifications shall receive a weekly rate of pay of not less than that set forth as follows:

(a) Less than one year's experience.....	\$20.00
Over one year.....	25.00
Over two years.....	30.00
Over three years.....	35.00
Over four years.....	40.00
Over five years.....	45.00
(b) Less than one year.....	16.50
Over one year.....	18.00
Over two years.....	20.00

2. The basis for computing experience, within the meaning of the above, shall be employment calculated upon the basis of time spent on the staffs of daily newspapers of general circulation of 5000 or more, or the bureaus of established national, or local news or photo services, in the same line of employment for which said employe is hired by the Publisher.

3. The present salary of any employe in excess of the minimums herein established shall not be reduced during the term of this agreement.

Article V—Five Day Week

Publisher agrees to establish the five-day, 40 hour week for editorial employes and to arrange a working schedule which shall provide for such a five-day, 40 hour week, except for suburban representatives, who may work a 40 hour schedule within a six-day week. A working day for all others shall consist of eight hours within a nine hour spread,

except that employes assigned to the Drama and Sports Departments may work 8 hours per day within such a spread as their duties may require. All employes shall be entitled to reasonable time off for midday lunch or for other meals in those cases where the employe reports for duty before 8 o'clock a. m. or works later than 6 o'clock p. m. It is agreed that time off for meals, as herein provided, shall not be included within the working day.

Article VI—Overtime

1. Compensation for overtime shall be at the rate of time and one-half in cash or straight time in blocks of not less than eight hours, or at the rate of time and one-half in blocks of not less than 3 hours after one o'clock p. m. on Saturdays, at the option of the Publisher. All overtime shall be liquidated within 90 days. Upon dismissal or resignation or death, any overtime shall be paid in cash at time and one-half.

2. If an employe has not taken his accumulated overtime prior to the termination of his employment with the Publisher, he shall be compensated for such overtime in cash at that time. In the event of the death of an employe, the Publisher shall pay to his estate, in cash, an amount equal to the amount of overtime, at time and a half, to which the employe would have been entitled.

3. In carrying out the provisions of this Article, it is agreed that each employe who is required to work overtime shall obtain from the Publisher or

his representative who is responsible for the assignment, a memorandum showing the date and the number of hours due him, a copy of which shall be filed with the party making said assignment.

Article VII—Severance Indemnity

1. Upon dismissal, an employe, upon request, shall receive a written notice from the Publisher or his agent stating the reason or grounds for dismissal.

2. An employe who is dismissed after six months service, except as hereinafter provided, shall receive severance indemnity of one (1) week's pay for each year of service, up to and including five (5) years, and in addition thereto, one (1) week's pay for each 30 weeks of service thereafter, but the total severance indemnity shall not exceed a maximum of twenty-six (26) weeks' pay. All loans, advances or debts to the Publisher shall be deducted from any sums due an employe upon his dismissal. No severance indemnity shall be paid to an employe who resigns or who shall have affirmatively brought about his discharge in order to collect severance pay.

3. Length of service for computation of severance pay shall be deemed to include only full-time service, and years of service shall be deemed to include only the total consecutive years the employe was employed on the Hollywood Citizen-News and The Hollywood Citizen.

4. Leaves of absence, granted by the Publisher, shall not count as breaks in continuous service, al-

though the time spent on such leaves shall not be considered service time.

Article VIII—Vacations

1. Employes shall be entitled to an annual vacation of two (2) weeks with full pay after one (1) year of service, the length of service to be computed from July 1st of the preceding year to July 1st of the current year. Where the employe has not been employed a full year, he shall be entitled to a vacation, the duration of which shall be computed by allowing him 1/6th of a six-day week for each month of employment—for example, ten months of service would entitle an employe to a vacation of 1-2/3 weeks.

2. An employe shall not be required to accept a vacation any time except between May 15 and September 30.

Article IX—Sick Leave

1. Sick leave shall be allowed on the same basis as vacations, except that the Publisher, in his discretion, may extend the period in any individual case.

2. No deduction from overtime already credited or to be credited to the employe shall be made for sick leave allowed by the Publisher.

Article X—Expenses and Equipment

1. Necessary working equipment is to be supplied by the Publisher, except where the employe may desire to use his own equipment. Employes

using their own cars on assignments shall be allowed mileage at the rate of 7¢ per mile for the first 40 miles in any one week, plus such additional compensation for mileage over 40 miles in any one week as may be individually agreed upon.

2. The Publisher shall reimburse employes for any damages to their clothing incurred in the course of their employment without negligence on their part. The Publisher shall pay for the reasonable cost of necessary meals when employes are working overtime by assignment. In the event of the death of an employe, all unpaid expenses to which the employe would otherwise be entitled by the Article shall be paid to said employe's estate.

Article XI—Miscellaneous

1. *Syndicate Rights.* When the management sells the product of an employe for publication outside The Citizen-News Company organization, a mutually agreeable payment shall be made to the employe in addition to his weekly wage.

2. *Guarantees.* There shall be no reduction in the wage scale of any employe as the result of this agreement or of the negotiations leading to its execution, but this shall not be construed to limit the powers of the Publisher, as set forth in Article II or otherwise herein.

3. *Outside Activities.* Employes of the Publisher shall be free to engage in any activities on their own time which do not consist of services per-

formed for publications in direct competition with the Publisher, provided that without permission, no employe shall exploit his connection with the Publisher in the course of such activities.

4. The Publisher agrees not to have or enter into any agreement with any other employer, binding such other employer not to offer or give employment to employes of the Publisher.

5. The Publisher agrees that no employe shall be required to have published under his own name any material containing an expression of opinion not in conformity with his own opinions.

6. The Guild is given the privilege of posting notices of its meetings upon the bulletin board now maintained in the editorial offices of the Publisher, to collect dues from its members on the premises of the Publisher, and to hold Unit meetings on the premises of the Publisher at times when the employes attending the same are off duty, but such meetings are to be held under such circumstances as do not interfere with the work of other employes.

7. This agreement is to become effective August 1, 1938 and is to continue up to and including July 1, 1939, with the right and privilege on the part of either the Guild or the Publisher at any time within 60 days prior to that date, to initiate negotiations for a new agreement to take effect at the expiration of the present agreement, and with the further right on the part of the Guild to reopen negotiations pertaining to Article IV, relating to minimum salaries

for the period of the Agreement extending from Jan. 1, 1939 to July 1, 1939.

THE CITIZEN NEWS COMPANY,
a corporation

By HARLAN G. PALMER

LOS ANGELES NEWSPAPER

GUILD, a Local of the Amer-
ican Newspaper Guild

By PHILIP M. CONNELLY

Pres.

In the United States Circuit Court of Appeals for
the Ninth Circuit

No. 9995

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

vs.

THE CITIZEN-NEWS COMPANY,
Respondent.

CERTIFICATE OF THE NATIONAL LABOR
RELATIONS BOARD

The National Labor Relations Board, by its Executive Secretary, duly authorized by the National Labor Relations Board, hereby certifies that the documents annexed hereto constitute a full and accurate transcript of the entire record in a proceeding had before said Board entitled, "In the Matter of

The Citizen-News Company and Los Angeles Newspaper Guild," the same being Case No. C-1790 before said Board, such transcript including the pleadings, testimony and evidence upon which the order of the Board in said proceeding was entered, and including also the findings and order of the Board.

Fully enumerated, said documents attached hereto are as follows:

1. Charge filed by Los Angeles Newspaper Guild, sworn to April 24, 1940.

2. Amended charge filed by Los Angeles Newspaper Guild, sworn to September 27, 1940.

3. Complaint and notice of hearing issued by the National Labor Relations Board, October 11, 1940.

4. Respondent's answer to the complaint.

5. Certified copy of order designating C. W. Whittemore, Trial Examiner for the National Labor Relations Board, dated November 9, 1940.

Documents listed hereinabove under items 1-5, inclusive, are contained in the exhibits and included under the following item:

6. Stenographic transcript of testimony before C. W. Whittemore, Trial Examiner for the National Labor Relations Board, on November 12, 13, 14, 15, 16, 18, and 19, 1940, together with all exhibits introduced in evidence.

7. Copy of Intermediate Report of Trial Examiner Whittemore, dated January 13, 1941.

8. Copy of order transferring case to Board,

dated January 27, 1941, together with annexed notice.

9. Copy of union's letter, dated February 10, 1941, requesting oral argument.

10. Copy of respondent's exceptions to Intermediate Report.

11. Copy of union's letter, dated February 15, 1941, requesting extension of time within which to file exceptions.

12. Copy of letter, dated February 17, 1941, granting union's request for extension of time within which to file exceptions.

13. Copy of notice of hearing for purpose of oral argument, dated February 21, 1941.

14. Copy of union's exceptions to Intermediate Report.

15. Copy of union's letter, dated March 3, 1941, requesting postponement of oral argument.

16. Copy of notice of postponement of hearing for purpose of oral argument, dated March 4, 1941.

17. Copy of list of appearances at oral argument held March 25, 1941.

18. Copy of decision, findings of fact, conclusions of law and order issued by the National Labor Relations Board, July 16, 1941, together with affidavit of service and United States Post Office return receipts thereof.

In Testimony Whereof the Executive Secretary of the National Labor Relations Board, being thereunto duly authorized as aforesaid, has hereunto set

her hand and affixed the seal of the National Labor Relations Board in the city of Washington, District of Columbia, this 5th day of December, 1941.

(Seal)

BEATRICE M. STERN,

Executive Secretary.

National Labor Relations Board.

[Endorsed]: No. 9995. United States Circuit Court of Appeals for the Ninth Circuit. National Labor Relations Board, Petitioner, vs. The Citizen-News Company, Respondent. Transcript of Record. Upon Petition for Enforcement of an Order of the National Labor Relations Board.

Filed December 9, 1941.

PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

[Title of Circuit Court of Appeals and Cause.]

STATEMENT OF POINTS ON WHICH PETITIONER INTENDS TO RELY

Comes now the National Labor Relations Board, petitioner in the above proceeding, and, in conformity with the revised rules of this Court heretofore adopted, hereby states the following points as those on which it intends to rely in this proceeding:

1. Upon the undisputed facts, the Act is applicable to respondent and to the employees herein involved.

2. The Board's findings of fact are fully supported by substantial evidence. Upon the facts so found, respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (1) and (2) of the Act.

3. The Board's Order is wholly valid and proper under the Act.

Dated at Washington, D. C., this 20th day of December, 1941.

NATIONAL LABOR RELATIONS
BOARD

By ERNEST A. GROSS,

Acting Associated General Counsel.

[Endorsed]: Filed Dec. 22, 1941. Paul P. O'Brien,
Clerk.

